

I certify that the attached is a true and

correct copy of HB 174 which

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DEC 5

1988
JAN 24 AM 9:03

and referred to the committee on:

State Affairs

HOUSE OF REPRESENTATIVES

Betty Murray

Chief Clerk of the House

FILED DEC 5 1988

By

Cauwages

H. B. No. 174

A BILL TO BE ENTITLED

AN ACT

relating to charges for the use of a motel or hotel telephone.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Article XIII, Public Utility Regulatory Act (Article 1446c, Vernon's Texas Civil Statutes), is amended by adding Section 93B to read as follows:

Sec. 93B. (a) The amount a hotel or motel charges for a local telephone call, a credit card telephone call, a collect telephone call, or a telephone call for which assistance from the hotel or motel operator is not required may not exceed the amount charged for a local call made from a public pay telephone.

(b) Each hotel or motel shall, on request of a guest, provide to the guest the total cost per minute charged by the long-distance carrier for the specific long-distance telephone call the guest intends to make from the room.

(c) Each hotel or motel shall attach to the telephone receiver in each room a notice of the total charges, other than the cost per minute charged by the long-distance carrier, charged by the hotel or motel or any other entity for making a long-distance call from the room. The notice must also include a statement that the hotel or motel will provide to the guest on request the total cost per minute charged by the long-distance carrier for making a specific telephone call from the room.

SECTION 2. This Act takes effect September 1, 1989.

RECEIVED
A. Hill
By Canizgo

H-B. No. 174

A BILL TO BE ENTITLED

AN ACT

The regulation of telephone charges
relating to ~~charges for the use of a motel or hotel telephone.~~ *solidarity*

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

(HOUSE)
SECTION 1. Article XIII, Public Utility Regulatory Act (Article 1446c, Vernon's Texas Civil Statutes), is amended by adding Section 93B to read as follows:

Sec. 93B. (a) The amount a hotel or motel charges for a local telephone call, a credit card telephone call, a collect telephone call, or a telephone call for which assistance from the hotel or motel operator is not required may not exceed the amount charged for a local call made from a public pay telephone.

(b) Each hotel or motel shall, on request of a guest, provide to the guest the total cost per minute charged by the long-distance carrier for the specific long-distance telephone call the guest intends to make from the room.

(c) Each hotel or motel shall attach to the telephone receiver in each room a notice of the total charges, other than the cost per minute charged by the long-distance carrier, charged by the hotel or motel or any other entity for making a long-distance call from the room. The notice must also include a statement that the hotel or motel will provide to the guest on request the total cost per minute charged by the long-distance carrier for making a specific telephone call from the room.

SECTION 2. This Act takes effect September 1, 1989.

1 SECTION 3. The importance of this legislation and the
2 crowded condition of the calendars in both houses create an
3 emergency and an imperative public necessity that the
4 constitutional rule requiring bills to be read on three several
5 days in each house be suspended, and this rule is hereby suspended.

HOUSE COMMITTEE REPORT

COMMITTEE REPORT

1st Printing

By Cavazos, et al.

H.B. No. 174

Substitute the following for H.B. No. 174:

By Guerrero

C.S.H.B. No. 174

A BILL TO BE ENTITLED

AN ACT

relating to charges for the use of a motel or hotel telephone.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Article XIII, Public Utility Regulatory Act (Article 1446c, Vernon's Texas Civil Statutes), is amended by adding Section 93B to read as follows:

Sec. 93B. (a) In this section, "operator service" means a service that uses a live operator or automated equipment to assist in the completion of communications over a telephone system.

(b) The amount a hotel or motel charges for a local telephone call, a credit card telephone call, a collect telephone call, or a telephone call for which assistance from the hotel or motel operator is not required may not exceed the amount charged for a local call made from a public pay telephone.

(c) Each hotel or motel shall, on request of a guest, provide to the guest the total cost per minute charged by the operator service and long-distance carrier for the specific long-distance telephone call the guest intends to make from the room.

(d) If a hotel or motel contracts with an operator service, the hotel or motel shall post adjacent to the telephone receiver in each room a notice of the total charges, other than the cost per minute charged by the long-distance carrier, charged by the operator service for making a long-distance call from the room.

1 The notice must also include:

2 (1) a statement that the hotel or motel will provide
3 to the guest on request the total cost per minute charged by the
4 long-distance carrier for making a specific telephone call from the
5 room; and

6 (2) instructions for how the caller may get access to
7 another operator service.

8 SECTION 2. This Act takes effect September 1, 1989.

9 SECTION 3. The importance of this legislation and the
10 crowded condition of the calendars in both houses create an
11 emergency and an imperative public necessity that the
12 constitutional rule requiring bills to be read on three several
13 days in each house be suspended, and this rule is hereby suspended.

COMMITTEE REPORT

The Honorable Gib Lewis
Speaker of the House of Representatives

4 - 26 - 89
(date)

Sir:

We, your COMMITTEE ON STATE AFFAIRS,

to whom was referred HB 174 have had the same under consideration and beg to report
(measure)
back with the recommendation that it

- () do pass, without amendment.
() do pass, with amendment(s).
☒ do pass and be not printed; a Complete Committee Substitute is recommended in lieu of the original measure.

A fiscal note was requested. ☒ yes () no An actuarial analysis was requested. () yes ☒ no

An author's fiscal statement was requested. () yes ☒ no

A criminal justice policy impact statement was prepared. () yes ☒ no

A water development policy impact statement was requested. () yes ☒ no

() The Committee recommends that this measure be sent to the Committee on Local and Consent Calendars for placement on the () Local, () Consent, or () Resolutions Calendar.

This measure () proposes new law. ☒ amends existing law.

House Sponsor of Senate Measure _____

The measure was reported from Committee by the following vote:

	AYE	NAY	PNV	ABSENT
Laney, Ch.			<input checked="" type="checkbox"/>	
Guerrero, V.C.	<input checked="" type="checkbox"/>			
Tallas, C.B.O.	<input checked="" type="checkbox"/>			
Cain				<input checked="" type="checkbox"/>
Gibson	<input checked="" type="checkbox"/>			
Harrison	<input checked="" type="checkbox"/>			
Hilbert	<input checked="" type="checkbox"/>			
Hury				<input checked="" type="checkbox"/>
Jones	<input checked="" type="checkbox"/>			
Oakley				<input checked="" type="checkbox"/>
Perez				<input checked="" type="checkbox"/>
Saunders	<input checked="" type="checkbox"/>			
Smith, T.	<input checked="" type="checkbox"/>			

Total
8 aye
0 nay
1 present, not voting
4 absent

[Signature]
CHAIRMAN
[Signature]
COMMITTEE COORDINATOR

BILL ANALYSIS

Background

Currently, a motel or hotel can set their own service charge for telephone calls made by the guest.

Purpose

This bill would require uniform telephone charges not to exceed public pay telephone charges.

Section by Section Analysis

SECTION 1 Amends Article XIII, Public Utility Regulatory Act (Article 1446c, Vernon's Texas Civil Statutes) by adding Section 93B, as follows:

- (a) Defines "operator service"
- (b) Limits the amount a hotel or motel may charge for certain types of telephone calls
- (c) Requires the hotel or motel to provide rate information at the request of a guest
- (d) Requires certain information be posted if a hotel or motel contracts with an operator service provider

SECTION 2 Effective Date September 1, 1989.

SECTION 3 Emergency Clause

Rulemaking Authority

It is the opinion of this committee that this bill does not grant any additional rulemaking authority to any state officer, agency, department, or institution.

Summary of Committee Action

On April 3, 1989, the committee considered HB 174 in a public hearing pursuant to notice posted in accordance with the Rules of the House. The following persons testified with respect to the measure: Rep. Anita Hill, in favor of the measure; Donald Simmons, representing Capital Network System, Inc. and Don Hansen, representing the Texas Hotel and Motel Association, testified in opposition. At that time the measure was left pending.

On April 26, 1989, in a formal meeting pursuant to an announcement from the floor of the House, the committee voted to report HB 174 to the full House, with a complete substitute and with the recommendation it do pass, by a record vote of 8 ayes, no nays, 1 PNV and 4 members absent.

Comparison of the Original to the Substitute

The original measure did not define operator service. The substitute measure defines operator service as the use of a live operator or automated equipment to assist in the completion of a call.

The substitute further makes provisions that require a hotel or motel to provide a cost per minute rate for a call if so requested by a guest.

The substitute requires that instructions be placed on the telephone information card so as to allow a customer to get access to another carrier.

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE

March 30, 1989

TO: Honorable James E. "Pete" Laney, Chair
Committee on State Affairs
House of Representatives
Austin, Texas

In Re: House Bill No. 174
By: Cavazos

FROM: Jim Oliver, Director

In response to your request for a Fiscal Note on House Bill No. 174 (relating to charges for the use of a motel or hotel telephone) this office has determined the following:

No fiscal implication to the State or units of local government is anticipated.

Criminal Justice Policy Impact Statement: No change in the sanctions applicable to adults convicted of felony crimes is anticipated.

Source: LBB Staff: JO, JWH, AL, PA

10587
ADOPTED

as amended

MAY 10 1989

Buddy Muessey
Chief Clerk
House of Representatives

By Cavazos, et al.

H.B. No. 174

Substitute the following for H.B. No. 174:

By Guerrero

C.S.H.B. No. 174

A BILL TO BE ENTITLED

AN ACT

1 relating to charges for the use of a motel or hotel telephone.

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

3
4 SECTION 93B A. Article XIII, Public Utility Regulatory Act
5 (Article 1446c, Vernon's Texas Civil Statutes), is amended by
6 adding Section 93B to read as follows:

7 Sec. 93B. (a) In this section, "operator service" means a
8 service that uses a live operator or automated equipment to assist
9 in the completion of communications over a telephone system. *This term shall not apply to similar operator services provided by long distance carriers.*

10 (b) The amount a hotel or motel charges for a local
11 telephone call, a credit card telephone call, a collect telephone
12 call, or a telephone call for which assistance from the hotel or
13 motel operator is not required may not exceed the amount charged
14 for a local call made from a public pay telephone.

15 (c) Each hotel or motel shall, on request of a guest,
16 provide to the guest the total cost per minute charged by the
17 operator service and long-distance carrier for the specific
18 long-distance telephone call the guest intends to make from the
19 room.

20 (d) If a hotel or motel contracts with an operator service,
21 the hotel or motel shall post adjacent to the telephone receiver in
22 each room a notice of the total charges, other than the cost per
23 minute charged by the long-distance carrier, charged by the
24 operator service for making a long-distance call from the room.

1 The notice must also include:

2 (1) a statement that the hotel or motel will provide
3 to the guest on request the total cost per minute charged by the
4 long-distance carrier for making a specific telephone call from the
5 room; and

6 (2) instructions for how the caller may get access to
7 the local exchange carrier or for and any interexchange carrier provided.
8 another operator service.

9 SECTION 2. This Act takes effect September 1, 1989.

10 SECTION 3. The importance of this legislation and the
11 crowded condition of the calendars in both houses create an
12 emergency and an imperative public necessity that the
13 constitutional rule requiring bills to be read on three several
days in each house be suspended, and this rule is hereby suspended.

ADOPTED

MAY 10 1989

Betty Messing
Chief Clerk
House of Representatives

FLOOR AMENDMENT NO. ①

BY *Cavazos*

1 Amend House Committee Substitute for HB 174 by Cavazos as
2 follows:

3

4 On page 1, line 9, at the end of Sec. 93 B. (a), add "This term
5 shall not apply to similar operator services provided by local
6 exchange carriers."

7

8 On page 1, line 10, insert "a guest or a patron" between
9 "charges" and "for".

10

11 On page 1, line 14, insert "coin" between "local" and "call".

12

13 On page 2, line 7, strike "another operator service" and insert
14 "the local exchange carrier operator and any interexchange
15 service provider".

INSERT 2 ADOPTED

MAY 10 1989

Betty Murray
Chief Clerk
House of Representatives

AMENDMENT No. 2 BY Caracas

Amend C.S. H.B. 174 on page 1, between lines 3 and 4, by inserting a new Section 1-5 to read as follows and by renumbering subsequent Sections appropriately:

SECTION 1. Subsection (c), Section 3, Public Utility Regulatory Act (Article 1446c, Vernon's Texas Civil Statutes), is amended to read as follows:

(c) The term "public utility" or "utility," when used in this Act, includes any person, corporation, river authority, cooperative corporation, or any combination thereof, other than a municipal corporation or a water supply or sewer service corporation, or their lessees, trustees, and receivers, now or hereafter owning or operating for compensation in this state equipment or facilities for:

(1) producing, generating, transmitting, distributing, selling, or furnishing electricity ("electric utilities" hereinafter) provided, however, that this definition shall not be construed to apply to or include a qualifying small power producer or qualifying cogenerator, as defined in Sections 3(17)(D) and 3(18)(C) of the Federal Power Act, as amended (16 U.S.C. Sections 796 (17)(D) and 796 (18)(C));

(2)(A) the conveyance, transmission, or reception of communications over a telephone system as a dominant carrier as hereinafter defined ("telecommunications utilities" hereinafter); provided that no person or corporation not otherwise a public utility within the meaning of this Act shall be deemed such solely

because of the furnishing or furnishing and maintenance of a private system or the manufacture, distribution, installation, or maintenance of customer premise communications equipment and accessories; and provided further that nothing in this Act shall be construed to apply to telegraph services, television stations, radio stations, community antenna television services, or radio-telephone services that may be authorized under the Public Mobile Radio Services rules of the Federal Communications Commission, other than such radio-telephone services provided by wire-line telephone companies under the Domestic Public Land Mobile Radio Service and Rural Radio Service rules of the Federal Communications Commission; and provided further that interexchange telecommunications carriers (including resellers of interexchange telecommunications services), specialized communications common carriers, other resellers of communications, [and] other communications carriers who convey, transmit, or receive communications in whole or in part over a telephone system, and providers of operator services as defined in Section 18A(a) of this Act (except that subscribers to customer-owned pay telephone service shall not be deemed to be telecommunications utilities) who are not dominant carriers are also telecommunications utilities, but the commission's regulatory authority as to them is only as hereinafter defined;

(B) "dominant carrier" when used in this Act means (i) a provider of any particular communication service which is provided in whole or in part over a telephone system who as to

~~CONFIDENTIAL~~

1 such service has sufficient market power in a telecommunications
2 market as determined by the commission to enable such provider to
3 control prices in a manner adverse to the public interest for such
4 service in such market; and (ii) any provider of local exchange
5 telephone service within a certificated exchange area as to such
6 service. A telecommunications market shall be statewide until
7 January 1, 1985. After this date the commission may, if it
8 determines that the public interest will be served, establish
9 separate markets within the state. Prior to January 1, 1985, the
10 commission shall hold such hearings and require such evidence as is
11 necessary to carry out the public purpose of this Act and to
12 determine the need and effect of establishing separate markets.
13 Any such provider determined to be a dominant carrier as to a
14 particular telecommunications service in a market shall not be
15 presumed to be a dominant carrier of a different telecommunications
16 service in that market.

17 (3) The term "public utility" or "utility" shall not
18 include any person or corporation not otherwise a public utility
19 that furnishes the services or commodity described in any paragraph
20 of this subsection only to itself, its employees, or tenants as an
21 incident of such employee service or tenancy, when such service or
22 commodity is not resold to or used by others. The term "electric
23 utility" shall not include any person or corporation not otherwise
24 a public utility that owns or operates in this state equipment or
25 facilities for producing, generating, transmitting, distributing,
26 selling, or furnishing electric energy to an electric utility, if

1 the equipment or facilities are used primarily for the production
2 and generation of electric energy for consumption by the person or
3 corporation.

4 SECTION 2. Subsection (c), Section 18, Public Utility
5 Regulatory Act (Article 1446c, Vernon's Texas Civil Statutes), is
6 amended to read as follows:

7 (c) Except as provided by Section 18A of this Act, the [The]
8 commission shall only have the following jurisdiction over all
9 [interexchange] telecommunications utilities [carriers--{including
10 resellers----of----interexchange----telecommunications---services},
11 specialized-communications--common--carriers,--other--resellers--of
12 communications,--and--other--communications--carriers--who--convey,
13 transmit,--or--receive--communications--in--whole--or--in--part--over--a
14 telephone-system] who are not dominant carriers:

15 (1) to require registration as provided in Subsection
16 (d) of this section;

17 (2) to conduct such investigations as are necessary to
18 determine the existence, impact, and scope of competition in the
19 telecommunications industry, including identifying dominant
20 carriers and defining the telecommunications market or markets, and
21 in connection therewith may call and hold hearings, issue subpoenas
22 to compel the attendance of witnesses and the production of papers
23 and documents, and make findings of fact and decisions with respect
24 to administering the provisions of this Act or the rules, orders,
25 and other actions of the commission;

26 (3) to require the filing of such reports as the

1 commission may direct from time to time;

2 (4) to require the maintenance of statewide average
3 rates or prices of telecommunications service;

4 (5) to require that every local exchange area have
5 access to interexchange telecommunications service, except that an
6 interexchange telecommunications carrier must be allowed to
7 discontinue service to a local exchange area if comparable service
8 is available in the area and the discontinuance is not contrary to
9 the public interest. This section does not authorize the
10 commission to require an interexchange telecommunications carrier
11 that has not provided services to a local exchange area during the
12 previous 12 months and that has never provided services to that
13 same local exchange area for a cumulative period of one year at any
14 time in the past to initiate services to that local exchange area;
15 and

16 (6) to require the quality of interexchange
17 telecommunications service provided in each exchange to be adequate
18 to protect the public interest and the interests of customers of
19 that exchange if the commission determines that service to a local
20 exchange has deteriorated to the point that long distance service
21 is not reliable.

22 SECTION 3. The Public Utility Regulatory Act (Article 1446c,
23 Vernon's Texas Civil Statutes) is amended by adding Section 18A to
24 read as follows:

25 Sec. 18A. (a) In this section, "operator service" means any
26 service using live operator or automated operator functions for the

1 handling of telephone service such as toll calling via collect,
2 third number billing, and calling card services. Calls for which
3 the called party has arranged to be billed (800 service) shall not
4 be considered operator services.

5 (b) Prior to the connection of each call the operator
6 service provider shall:

7 (1) announce the provider's name; and
8 (2) quote, at the caller's request, the rate and any
9 other fees or surcharges applicable to the call and charged by the
10 provider.

11 (c) An operator service provider shall furnish each entity
12 with which it contracts to provide operator service a sticker,
13 card, or other form of information approved by the commission for
14 each telephone that has access to the service and is intended to be
15 utilized by the public, unless the owner of the telephone has
16 received approval from the commission for an alternative form of
17 information. The information must state the provider's name, that
18 the operator service provider will provide rate information on the
19 caller's request, that the caller will be informed how to access
20 the local exchange carrier operator on request, and that any
21 complaint about the service may be made to the provider or the
22 commission at the designated telephone number. The operator
23 service provider shall require by contract that the entity
24 receiving the information display it on or near each of the
25 telephones that has access to the service and is intended for use
26 by the public.

C. 9. 10

1 (d) An operator service provider must, on request, inform
2 the caller how to access the operator for the local exchange
3 carrier serving the exchange from which the call is made. No
4 charge shall be made for this information.

5 (e) An operator service provider shall include in its
6 contract with each entity through which it provides operator
7 service a requirement that the telephones subscribed to its
8 services shall allow access to the local exchange carrier operator
9 serving the exchange from which the call is made and to other
10 operator service providers. But in order to prevent fraudulent use
11 of its services, an operator service provider may block access if
12 the provider obtains a waiver for this purpose from the commission
13 or the Federal Communications Commission.

14 (f) The commission shall promulgate rules consistent with
15 the requirements of this section and any additional requirements
16 deemed necessary to protect the public interest by January 1, 1990.
17 All rules promulgated under this section shall be nondiscriminatory
18 and designed to promote competition which facilitates consumer
19 choice.

20 (g) The commission may investigate a complaint that it
21 receives concerning operator service. If the commission determines
22 that a person has violated or is about to violate this section, the
23 commission may, upon proper notice and evidentiary hearing, take
24 action to stop, correct, or prevent the violation.

25 (h) This section applies only to a telecommunications
26 utility who is not a dominant carrier. The commission is granted

1 all necessary power and authority under this Act to promulgate
2 rules and establish procedures for the purposes of enforcing and
3 implementing this section.

4 SECTION 4. Section 71, Public Utility Regulatory Act
5 (Article 1446c, Vernon's Texas Civil Statutes), is amended to read
6 as follows:

7 Sec. 71. Whenever it appears to the commission that any
8 public utility or any other person or corporation is engaged in, or
9 is about to engage in, any act in violation of this Act or of any
10 order, rule, or regulation of the commission entered or adopted
11 under the provisions of this Act, or that any public utility or any
12 other person or corporation is failing to comply with the
13 provisions of this Act or with any such rule, regulation, or order,
14 the attorney general on request of the commission, in addition to
15 any other remedies provided herein, shall bring an action in a
16 court of competent jurisdiction in the name of and on behalf of the
17 commission against such public utility or other person or
18 corporation to enjoin the commencement or continuation of any such
19 act, or to require compliance with such Act, rule, regulation, or
20 order. The attorney general may bring such an action to enforce
21 Section 18A of this Act regardless of whether the commission
22 requests the action.

23 SECTION 5. Subsections (a) and (b), Section 72, Public
24 Utility Regulatory Act (Article 1446c, Vernon's Texas Civil
25 Statutes), are amended to read as follows:

26 (a) Any public utility, or nondominant telecommunications

1 utility [water-supply-or-sewer-service-corporation], or affiliated
2 interest that knowingly violates a provision of this Act, fails to
3 perform a duty imposed on it, or fails, neglects, or refuses to
4 obey an order, rule, regulation, direction, or requirement of the
5 commission or decree or judgment of a court, shall be subject to a
6 civil penalty of not less than \$1,000 nor more than \$5,000 for each
7 offense.

8 (b) A public utility, or nondominant telecommunications
9 utility [water-supply-or-sewer-service-corporation], or affiliated
10 interest commits a separate offense each day it continues to
11 violate the provisions of Subsection (a) of this section.

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ADOPTED

MAY 10 1989

Betty Murray
Chief Clerk
House of Representatives

Amendment No. 3

By P. Hill

H.B. No. 174

SECTION 1. The Public Utility Regulatory Act (Article 1446c, Vernon's Texas Civil Statutes) is amended by adding Article XV to read as follows:

ARTICLE XV. TELEPHONE SOLICITATION

Sec. 111. In this article:

(1) "Consumer telephone call" means a call made to a residential number by a telephone solicitor:

(A) to solicit a sale of a consumer good or service, including cemetery lots and time-share estates;

(B) to solicit an extension of credit for consumer goods or services;

(C) to obtain information that will or may be used to directly solicit a sale of a consumer good or service or to extend credit for the sale; or

(D) that uses any device, system, or gimmick to request or encourage the person to call the telephone solicitor.

(2) "Telephone solicitor" means a person who makes or causes to be made a consumer telephone call, including a call made by an automated dialing or recorded message device.

(3) "Unsolicited consumer telephone call" means any

consumer telephone call except a call made;

(A) in response to the express request of the person called;

(B) primarily in connection with an existing debt or contract for which payment or performance has not been completed at the time of the call;

(C) ^{when} the person is soliciting business from prospective purchasers who have previously purchased from the person making the call or the business enterprise for which the person is calling or who has submitted an application for services;

(D) to a person to whom the telephone solicitor was referred by a third party;

(E) by a newspaper or magazine publisher or the publisher's agent or employee in connection with newspaper or magazine business;

(F) by or on behalf of a political, ^{charitable} charitable, public opinion polling, or radio or television broadcast rating organization in which there is no effort to sell consumer goods or services.

Sec. 112. (a) Before a telephone solicitor does business in this state, the solicitor shall register with the commission by filing the information required by Section 113 of this Act and paying a filing fee of \$50. A telephone solicitor is considered to do business in this state if the seller solicits prospective purchasers from locations in this state or solicits prospective purchasers who are located in this state.

(b) Registration of a telephone solicitor is valid for one year after its effective date and may be renewed

annually by making the filing required by Section 113
of this Act and paying a filing fee of \$50.

(c) If, before expiration of a telephone solicitor's
annual registration, there is a material change in the
information required by Section 113 of this Act, the solicitor
shall file an addendum updating the information with the
commission.

(d) On receipt of the filing and filing fee under
Subsection (a) and (b) of this section, the commission
shall assign the solicitor a registration number and send
the telephone solicitor a written confirmation of the
registration number.

Sec. 113. (a) Each filing under Section 112 of this
Act must contain the following information, to the extent
applicable:

(1) the name of the telephone solicitor or of
the business entity if the entity uses independent contractors
to make the solicitations;

(2) whether the telephone solicitor is doing
business as a corporation, a partnership, an individual,
or other legal entity;

(3) each name under which the telephone solicitor
has done, is doing, or intends to do business;

(4) the name of any parent or affiliated business
that will engage in business transactions with a purchaser
or will take responsibility for statements made by the
telephone solicitor or a salesperson of the telephone
solicitor;

(5) the name, business address, business telephone number, and office held by the telephone solicitor's president, vice-president, secretary, partners, and any other persons who have management responsibility for the telephone solicitor's business activities relating to consumer telephone calls;

(6) if the principal location of the solicitor is not in this state, a designation of its location in this state that is its main location in this state; and

(7) the name and address of the telephone solicitor's agent in this state, other than the secretary of state, authorized to receive services of process in this state.

(b) A business entity can make a single filing on behalf of its independent contractors.

Sec. 114. (a) The commission shall maintain a privacy list of subscribers to any telephone company who do not want to receive unsolicited consumer telephone calls. The commission shall update the list at least annually.

(b) A telephone subscriber shall notify the commission if the subscriber does not want to receive unsolicited consumer telephone calls. The commission shall place the person's name and telephone number on a privacy list.

(c) The commission shall make the list available to a telephone solicitor.

(d) The commission may charge a fee to publish and distribute the list.

(e) The commission may establish privacy lists for categories of calls including:

(1) informational calls;

(2) sales or contribution-related calls;

(3) nonprofit calls;

(4) commercial calls; and

(5) reminders.

(f) A telephone solicitor doing business in this state shall maintain a current record of each telephone subscriber who is included on a privacy record.

(g) A telephone solicitor may not make or cause to be made an unsolicited consumer telephone call to a residential telephone number for a purpose for which the number is listed in a privacy list.

(h) The commission shall require each telephone company that publishes a telephone directory in this state to publish in its white pages information the commission determines is necessary to advise subscribers of the privacy list published by the commission, the complaint procedures, and their rights under this title.

Sec. 115. (a) A telephone solicitor who makes an unsolicited consumer telephone call to a telephone subscriber whose number is not included on a privacy list shall:

(1) identify himself and the business on whose behalf the solicitor is calling immediately after making contact with the person to whom the call is made;

(2) ask, within 30 seconds after beginning the conversation, if the person is interested in listening to a sales presentation and, if the person gives a negative response, immediately discontinue the call;

(3) inform the person of the person's right to cancel a purchase of consumer goods or services made as a result of the unsolicited consumer telephone call; and

(4) inform the person of the address to which the person must mail a letter of cancellation.

(b) A telephone solicitor may not make an unsolicited consumer telephone call before 9 a.m. or after 9 p.m. on a weekday or before 10 a.m. and after 6 p.m. on a Saturday or Sunday.

Sec. 116. (a) Except as provided by Subsection (e)
of this section, a person is entitled to cancel a purchase
of consumer goods or services made as a result of an unsolicited
consumer telephone call before 12 midnight of the third
business day after the day on which the person agrees
to purchase the consumer goods or services. This does
not prejudice any other remedies that the consumer has
under existing law.

(b) The purchase is considered to be canceled when
the person gives written notice of cancellation to the
telephone solicitor at the address stated during the
unsolicited telephone call.

(c) If notice of cancellation is given by mail, the purchase
is considered canceled when the notice is deposited in a mailbox

1 and is properly addressed and postage prepaid.

2 (d) The notice of cancellation is not required to be in a
3 particular form and is sufficient if it indicates by any form of
4 written expression that the buyer does not intend to be bound by
5 the sale.

6 (e) A buyer may not cancel a purchase made as a result of an
7 unsolicited telephone call:

8 (1) if the buyer requests the seller to provide goods
9 or services without delay because of an emergency and the seller in
10 good faith substantially begins performing the contract before the
11 buyer gives notice of cancellation; or

12 (2) in the case of goods, the goods cannot be returned
13 to the seller in substantially as good condition as when received
14 by the buyer.

15 (f) A contract or agreement to purchase a consumer good or
16 service made as a result of an unsolicited telephone call made by a
17 telephone solicitor in violation of this article is voidable by the
18 subscriber.

19 Sec. 117. (a) The commission shall investigate a complaint
20 the commission receives relating to a violation of this article.

21 (b) If the commission finds after an investigation that
22 there has been a violation of this article, the commission may
23 bring an action to impose an administrative penalty under Section
24 119 of this Act or request the attorney general to initiate
25 criminal or civil actions under Section 120 of this Act.

26 Sec. 118. (a) If the attorney general has reason to believe
27 that a person has violated, is violating, or is about to violate a

1 provision of this article and believes that it is in the public
2 interest to conduct an investigation, the attorney general may
3 execute in writing and serve on a person who is believed to have
4 information, documentary material, or physical evidence relevant to
5 the alleged violation, an investigative demand requiring the person
6 to provide, under oath or otherwise, a report in writing containing
7 the nonprivileged relevant facts and circumstances of which the
8 person has knowledge, to appear and testify, or to produce relevant
9 nonprivileged documentary material or physical evidence for
10 examination at a reasonable time and place stated in the
11 investigative demand.

12 (b) At any time before the earlier of the return date
13 prescribed by the investigative demand or the 20th day after the
14 date on which the demand is served, the person may file a petition
15 to extend the return date or to modify or set aside the demand.
16 The person must state the reason for the request and must file the
17 request in the district court in Travis County or in the county in
18 which the person served with the demand resides or has his
19 principal place of business. The parties may agree at any time to
20 extend the return date or to modify or set aside the demand.

21 (c) The attorney general shall inform the commission of the
22 investigation.

23 Sec. 119. (a) A person who has been found by the commission
24 to have violated this article is liable for an administrative
25 penalty of not more than \$100 for each day during which the
26 violation continues. The administrative penalty may not exceed
27 \$10,000 for a related series of violations.

1 (b) The commission shall assess the penalty after notice and
2 a hearing. In determining the amount of the penalty, the
3 commission shall consider:

4 (1) the nature, circumstances, and gravity of the
5 violation;

6 (2) the degree to which the person penalized is
7 culpable;

8 (3) the effect of the penalty on the person's ability
9 to continue to do business; and

10 (4) any show of good faith in attempting to achieve
11 compliance with this article.

12 — Sec. 120. (a) The attorney general at his discretion or at
13 the request of the commission may bring an action to:

14 (1) obtain a declaratory judgment that an act or
15 practice violates this article;

16 (2) enjoin or obtain a restraining order against a
17 person who has violated, is violating, or is likely to violate this
18 article;

19 (3) recover actual damages and, in the case of
20 unconscionable conduct, penalties as provided by this Act, on
21 behalf of an aggrieved telephone subscriber; or

22 (4) recover reasonable expenses, investigation fees,
23 and attorney's fees.

24 (b) The attorney general may accept a consent judgment
25 relating to an act or practice declared to be in violation of this
26 article. The consent judgment:

27 (1) shall require the person to discontinue the act or

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1 a transaction in accordance with a telephone subscriber's
2 reasonable expectations;

3 (4) appoint a master or receiver or order
4 sequestration of assets if it appears that the defendant threatens
5 to or is about to remove, conceal, or dispose of property to the
6 detriment of a person to whom restoration would be made under this
7 subsection, and assess the expenses of a master or receiver against
8 the defendant;

9 (5) revoke a license or certificate authorizing that
10 person to engage in business in this state;

11 (6) enjoin a person from engaging in business in this
12 state; or

13 (7) grant other appropriate relief.

14 (b) When the attorney general files an action under this
15 article, another action seeking an injunction or declaratory
16 judgment may not be filed in any other county or district in this
17 state if the action is based on the same transaction or occurrence,
18 series of transactions or occurrences, or allegations that form the
19 basis of the first action filed.

20 Sec. 122. (a) A person commits an offense if the person
21 violates any provision of this article or fails to perform a duty
22 imposed by this article.

23 (b) An offense under this section is a Class B misdemeanor.

24 Sec. 123. (a) In addition to other penalties or liabilities
25 imposed by this article, a person who violates this article is
26 liable for a civil penalty of not more than \$10,000 for each
27 violation.

1 (b) A person convicted of a violation of any of the
2 provisions of this article automatically forfeits the registration
3 issued under this article.

4 Sec. 124. A civil fine, attorney's fees, and any other fees
5 collected by the attorney general under this article shall be
6 deposited in the general revenue fund.

ENGROSSED
SECOND READING

By Cavazos, et al.

H.B. No. 174

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of telephone operator services and telephone solicitation.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subsection (c), Section 3, Public Utility Regulatory Act (Article 1446c, Vernon's Texas Civil Statutes), is amended to read as follows:

(c) The term "public utility" or "utility," when used in this Act, includes any person, corporation, river authority, cooperative corporation, or any combination thereof, other than a municipal corporation or a water supply or sewer service corporation, or their lessees, trustees, and receivers, now or hereafter owning or operating for compensation in this state equipment or facilities for:

(1) producing, generating, transmitting, distributing, selling, or furnishing electricity ("electric utilities" hereinafter) provided, however, that this definition shall not be construed to apply to or include a qualifying small power producer or qualifying cogenerator, as defined in Sections 3(17)(D) and 3(18)(C) of the Federal Power Act, as amended (16 U.S.C. Sections 796 (17)(D) and 796 (18)(C));

(2)(A) the conveyance, transmission, or reception of communications over a telephone system as a dominant carrier as hereinafter defined ("telecommunications utilities" hereinafter);

1 provided that no person or corporation not otherwise a public
2 utility within the meaning of this Act shall be deemed such solely
3 because of the furnishing or furnishing and maintenance of a
4 private system or the manufacture, distribution, installation, or
5 maintenance of customer premise communications equipment and
6 accessories; and provided further that nothing in this Act shall be
7 construed to apply to telegraph services, television stations,
8 radio stations, community antenna television services, or
9 radio-telephone services that may be authorized under the Public
10 Mobile Radio Services rules of the Federal Communications
11 Commission, other than such radio-telephone services provided by
12 wire-line telephone companies under the Domestic Public Land Mobile
13 Radio Service and Rural Radio Service rules of the Federal
14 Communications Commission; and provided further that interexchange
15 telecommunications carriers (including resellers of interexchange
16 telecommunications services), specialized communications common
17 carriers, other resellers of communications, [and] other
18 communications carriers who convey, transmit, or receive
19 communications in whole or in part over a telephone system, and
20 providers of operator services as defined in Section 18A(a) of this
21 Act (except that subscribers to customer-owned pay telephone
22 service shall not be deemed to be telecommunications utilities) who
23 are not dominant carriers are also telecommunications utilities,
24 but the commission's regulatory authority as to them is only as
25 hereinafter defined;

26 (B) "dominant carrier" when used in this Act
27 means (i) a provider of any particular communication service which

1 is provided in whole or in part over a telephone system who as to
2 such service has sufficient market power in a telecommunications
3 market as determined by the commission to enable such provider to
4 control prices in a manner adverse to the public interest for such
5 service in such market; and (ii) any provider of local exchange
6 telephone service within a certificated exchange area as to such
7 service. A telecommunications market shall be statewide until
8 January 1, 1985. After this date the commission may, if it
9 determines that the public interest will be served, establish
10 separate markets within the state. Prior to January 1, 1985, the
11 commission shall hold such hearings and require such evidence as is
12 necessary to carry out the public purpose of this Act and to
13 determine the need and effect of establishing separate markets.
14 Any such provider determined to be a dominant carrier as to a
15 particular telecommunications service in a market shall not be
16 presumed to be a dominant carrier of a different telecommunications
17 service in that market.

18 (3) The term "public utility" or "utility" shall not
19 include any person or corporation not otherwise a public utility
20 that furnishes the services or commodity described in any paragraph
21 of this subsection only to itself, its employees, or tenants as an
22 incident of such employee service or tenancy, when such service or
23 commodity is not resold to or used by others. The term "electric
24 utility" shall not include any person or corporation not otherwise
25 a public utility that owns or operates in this state equipment or
26 facilities for producing, generating, transmitting, distributing,
27 selling, or furnishing electric energy to an electric utility, if

the equipment or facilities are used primarily for the production and generation of electric energy for consumption by the person or corporation.

SECTION 2. Subsection (c), Section 18, Public Utility Regulatory Act (Article 1446c, Vernon's Texas Civil Statutes), is amended to read as follows:

(c) Except as provided by Section 18A of this Act, the [The] commission shall only have the following jurisdiction over all [interexchange] telecommunications utilities [carriers-(including resellers---of----interexchange----telecommunications----services), specialized--communications--common--carriers,--other--resellers-of communications,--and--other--communications--carriers--who--convey, transmit,--or--receive--communications--in--whole-or-in-part-over-a telephone-system] who are not dominant carriers:

(1) to require registration as provided in Subsection (d) of this section;

(2) to conduct such investigations as are necessary to determine the existence, impact, and scope of competition in the telecommunications industry, including identifying dominant carriers and defining the telecommunications market or markets, and in connection therewith may call and hold hearings, issue subpoenas to compel the attendance of witnesses and the production of papers and documents, and make findings of fact and decisions with respect to administering the provisions of this Act or the rules, orders, and other actions of the commission;

(3) to require the filing of such reports as the commission may direct from time to time;

1 (4) to require the maintenance of statewide average
2 rates or prices of telecommunications service;

3 (5) to require that every local exchange area have
4 access to interexchange telecommunications service, except that an
5 interexchange telecommunications carrier must be allowed to
6 discontinue service to a local exchange area if comparable service
7 is available in the area and the discontinuance is not contrary to
8 the public interest. This section does not authorize the
9 commission to require an interexchange telecommunications carrier
10 that has not provided services to a local exchange area during the
11 previous 12 months and that has never provided services to that
12 same local exchange area for a cumulative period of one year at any
13 time in the past to initiate services to that local exchange area;
14 and

15 (6) to require the quality of interexchange
16 telecommunications service provided in each exchange to be adequate
17 to protect the public interest and the interests of customers of
18 that exchange if the commission determines that service to a local
19 exchange has deteriorated to the point that long distance service
20 is not reliable.

21 SECTION 3. The Public Utility Regulatory Act (Article 1446c,
22 Vernon's Texas Civil Statutes) is amended by adding Section 18A to
23 read as follows:

24 Sec. 18A. (a) In this section, "operator service" means any
25 service using live operator or automated operator functions for the
26 handling of telephone service such as toll calling via collect,
27 third number billing, and calling card services. Calls for which

1 the called party has arranged to be billed (800 service) shall not
2 be considered operator services.

3 (b) Prior to the connection of each call the operator
4 service provider shall:

5 (1) announce the provider's name; and

6 (2) quote, at the caller's request, the rate and any
7 other fees or surcharges applicable to the call and charged by the
8 provider.

9 (c) An operator service provider shall furnish each entity
10 with which it contracts to provide operator service a sticker,
11 card, or other form of information approved by the commission for
12 each telephone that has access to the service and is intended to be
13 utilized by the public, unless the owner of the telephone has
14 received approval from the commission for an alternative form of
15 information. The information must state the provider's name, that
16 the operator service provider will provide rate information on the
17 caller's request, that the caller will be informed how to access
18 the local exchange carrier operator on request, and that any
19 complaint about the service may be made to the provider or the
20 commission at the designated telephone number. The operator
21 service provider shall require by contract that the entity
22 receiving the information display it on or near each of the
23 telephones that has access to the service and is intended for use
24 by the public.

25 (d) An operator service provider must, on request, inform
26 the caller how to access the operator for the local exchange
27 carrier serving the exchange from which the call is made. No

1 charge shall be made for this information.

2 (e) An operator service provider shall include in its
3 contract with each entity through which it provides operator
4 service a requirement that the telephones subscribed to its
5 services shall allow access to the local exchange carrier operator
6 serving the exchange from which the call is made and to other
7 operator service providers. But in order to prevent fraudulent use
8 of its services, an operator service provider may block access if
9 the provider obtains a waiver for this purpose from the commission
10 or the Federal Communications Commission.

11 (f) The commission shall promulgate rules consistent with
12 the requirements of this section and any additional requirements
13 deemed necessary to protect the public interest by January 1, 1990.
14 All rules promulgated under this section shall be nondiscriminatory
15 and designed to promote competition which facilitates consumer
16 choice.

17 (g) The commission may investigate a complaint that it
18 receives concerning operator service. If the commission determines
19 that a person has violated or is about to violate this section, the
20 commission may, upon proper notice and evidentiary hearing, take
21 action to stop, correct, or prevent the violation.

22 (h) This section applies only to a telecommunications
23 utility who is not a dominant carrier. The commission is granted
24 all necessary power and authority under this Act to promulgate
25 rules and establish procedures for the purposes of enforcing and
26 implementing this section.

27 SECTION 4. Section 71, Public Utility Regulatory Act

(Article 1446c, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 71. Whenever it appears to the commission that any public utility or any other person or corporation is engaged in, or is about to engage in, any act in violation of this Act or of any order, rule, or regulation of the commission entered or adopted under the provisions of this Act, or that any public utility or any other person or corporation is failing to comply with the provisions of this Act or with any such rule, regulation, or order, the attorney general on request of the commission, in addition to any other remedies provided herein, shall bring an action in a court of competent jurisdiction in the name of and on behalf of the commission against such public utility or other person or corporation to enjoin the commencement or continuation of any such act, or to require compliance with such Act, rule, regulation, or order. The attorney general may bring such an action to enforce Section 18A of this Act regardless of whether the commission requests the action.

SECTION 5. Subsections (a) and (b), Section 72, Public Utility Regulatory Act (Article 1446c, Vernon's Texas Civil Statutes), are amended to read as follows:

(a) Any public utility, or nondominant telecommunications utility [~~water-supply-or-sewer-service-corporation~~], or affiliated interest that knowingly violates a provision of this Act, fails to perform a duty imposed on it, or fails, neglects, or refuses to obey an order, rule, regulation, direction, or requirement of the commission or decree or judgment of a court, shall be subject to a

1 civil penalty of not less than \$1,000 nor more than \$5,000 for each
2 offense.

3 (b) A public utility, or nondominant telecommunications
4 utility [~~water-supply-or-sewer-service-corporation~~], or affiliated
5 interest commits a separate offense each day it continues to
6 violate the provisions of Subsection (a) of this section.

7 SECTION 6. Article XIII, Public Utility Regulatory Act
8 (Article 1446c, Vernon's Texas Civil Statutes), is amended by
9 adding Section 93B to read as follows:

10 Sec. 93B. (a) In this section, "operator service" means a
11 service that uses a live operator or automated equipment to assist
12 in the completion of communications over a telephone system. This
13 term shall not apply to similar operator services provided by local
14 exchange carriers.

15 (b) The amount a hotel or motel charges a guest or a patron
16 for a local telephone call, a credit card telephone call, a collect
17 telephone call, or a telephone call for which assistance from the
18 hotel or motel operator is not required may not exceed the amount
19 charged for a local coin call made from a public pay telephone.

20 (c) Each hotel or motel shall, on request of a guest,
21 provide to the guest the total cost per minute charged by the
22 operator service and long-distance carrier for the specific
23 long-distance telephone call the guest intends to make from the
24 room.

25 (d) If a hotel or motel contracts with an operator service,
26 the hotel or motel shall post adjacent to the telephone receiver in
27 each room a notice of the total charges, other than the cost per

1 minute charged by the long-distance carrier, charged by the
2 operator service for making a long-distance call from the room.

3 The notice must also include:

4 (1) a statement that the hotel or motel will provide
5 to the guest on request the total cost per minute charged by the
6 long-distance carrier for making a specific telephone call from the
7 room; and

8 (2) instructions for how the caller may get access to
9 the local exchange carrier operator and any interexchange service
10 provider.

11 SECTION 7. The Public Utility Regulatory Act (Article 1446c,
12 Vernon's Texas Civil Statutes) is amended by adding Article XV to
13 read as follows:

14 ARTICLE XV. TELEPHONE SOLICITATION

15 Sec. 111. In this article:

16 (1) "Consumer telephone call" means a call made to a
17 residential number by a telephone solicitor:

18 (A) to solicit a sale of a consumer good or
19 service, including cemetery lots and time-share estates;

20 (B) to solicit an extension of credit for
21 consumer goods or services;

22 (C) to obtain information that will or may be
23 used to directly solicit a sale of a consumer good or service or to
24 extend credit for the sale; or

25 (D) that uses any device, system, or gimmick to
26 request or encourage the person to call the telephone solicitor.

27 (2) "Telephone solicitor" means a person who makes or

1 causes to be made a consumer telephone call, including a call made
2 by an automated dialing or recorded message device.

3 (3) "Unsolicited consumer telephone call" means any
4 consumer telephone call except a call made:

5 (A) in response to the express request of the
6 person called;

7 (B) primarily in connection with an existing
8 debt or contract for which payment or performance has not been
9 completed at the time of the call;

10 (C) when the person is soliciting business from
11 prospective purchasers who have previously purchased from the
12 person making the call or the business enterprise for which the
13 person is calling or who have submitted an application for
14 services;

15 (D) to a person to whom the telephone solicitor
16 was referred by a third party;

17 (E) by a newspaper or magazine publisher or the
18 publisher's agent or employee in connection with newspaper or
19 magazine business; or

20 (F) by or on behalf of a political, charitable,
21 public opinion polling, or radio or television broadcast rating
22 organization in which there is no effort to sell consumer goods or
23 services.

24 Sec. 112. (a) Before a telephone solicitor does business in
25 this state, the solicitor shall register with the commission by
26 filing the information required by Section 113 of this Act and
27 paying a filing fee of \$50. A telephone solicitor is considered to

1 do business in this state if the seller solicits prospective
2 purchasers from locations in this state or solicits prospective
3 purchasers who are located in this state.

4 (b) Registration of a telephone solicitor is valid for one
5 year after its effective date and may be renewed annually by making
6 the filing required by Section 113 of this Act and paying a filing
7 fee of \$50.

8 (c) If, before expiration of a telephone solicitor's annual
9 registration, there is a material change in the information
10 required by Section 113 of this Act, the solicitor shall file an
11 addendum updating the information with the commission.

12 (d) On receipt of a filing and filing fee under Subsections
13 (a) and (b) of this section, the commission shall assign the
14 solicitor a registration number and send the telephone solicitor a
15 written confirmation of the registration number.

16 Sec. 113. (a) Each filing under Section 112 of this Act
17 must contain the following information, to the extent applicable:

18 (1) the name of the telephone solicitor or of the
19 business entity if the entity uses independent contractors to make
20 the solicitations;

21 (2) whether the telephone solicitor is doing business
22 as a corporation, a partnership, an individual, or other legal
23 entity;

24 (3) each name under which the telephone solicitor has
25 done, is doing, or intends to do business;

26 (4) the name of any parent or affiliated business that
27 will engage in business transactions with a purchaser or will take

1 responsibility for statements made by the telephone solicitor or a
2 salesperson of the telephone solicitor;

3 (5) the name, business address, business telephone
4 number, and office held by each of the telephone solicitor's
5 president, vice-president, secretary, partners, and any other
6 persons who have management responsibility for the telephone
7 solicitor's business activities relating to consumer telephone
8 calls;

9 (6) if the principal location of the solicitor is not
10 in this state, a designation of its location in this state that is
11 its main location in this state; and

12 (7) the name and address of the telephone solicitor's
13 agent in this state, other than the secretary of state, authorized
14 to receive service of process in this state.

15 (b) A business entity can make a single filing on behalf of
16 its independent contractors.

17 Sec. 114. (a) The commission shall maintain a privacy list
18 of subscribers to any telephone company who do not want to receive
19 unsolicited consumer telephone calls. The commission shall update
20 the list at least annually.

21 (b) A telephone subscriber shall notify the commission if
22 the subscriber does not want to receive unsolicited consumer
23 telephone calls. The commission shall place the person's name and
24 telephone number on a privacy list.

25 (c) The commission shall make the list available to a
26 telephone solicitor.

27 (d) The commission may charge a fee to publish and

1 distribute the list.

2 (e) The commission may establish privacy lists for
3 categories of calls including:

4 (1) informational calls;

5 (2) sales or contribution-related calls;

6 (3) nonprofit calls;

7 (4) commercial calls; and

8 (5) reminders.

9 (f) A telephone solicitor doing business in this state shall
10 maintain a current record of each telephone subscriber who is
11 included on a privacy record.

12 (g) A telephone solicitor may not make or cause to be made
13 an unsolicited consumer telephone call to a residential telephone
14 number for a purpose for which the number is listed in a privacy
15 list.

16 (h) The commission shall require each telephone company that
17 publishes a telephone directory in this state to publish in its
18 white pages information the commission determines is necessary to
19 advise subscribers of the privacy list published by the commission,
20 the complaint procedures, and their rights under this title.

21 Sec. 115. (a) A telephone solicitor who makes an
22 unsolicited consumer telephone call to a telephone subscriber whose
23 number is not included on a privacy list shall:

24 (1) identify himself and the business on whose behalf
25 the solicitor is calling immediately after making contact with the
26 person to whom the call is made;

27 (2) ask, within 30 seconds after beginning the

1 conversation, if the person is interested in listening to a sales
2 presentation and, if the person gives a negative response,
3 immediately discontinue the call;

4 (3) inform the person of the person's right to cancel
5 a purchase of consumer goods or services made as a result of the
6 unsolicited consumer telephone call; and

7 (4) inform the person of the address to which the
8 person must mail a letter of cancellation.

9 (b) A telephone solicitor may not make an unsolicited
10 consumer telephone call before 9 a.m. or after 9 p.m. on a weekday
11 or before 10 a.m. or after 6 p.m. on a Saturday or Sunday.

12 Sec. 116. (a) Except as provided by Subsection (e) of this
13 section, a person is entitled to cancel a purchase of consumer
14 goods or services made as a result of an unsolicited consumer
15 telephone call before 12 midnight of the third business day after
16 the day on which the person agrees to purchase the consumer goods
17 or services. This does not prejudice any other remedies that the
18 consumer has under existing law.

19 (b) The purchase is considered to be canceled when the
20 person gives written notice of cancellation to the telephone
21 solicitor at the address stated during the unsolicited telephone
22 call.

23 (c) If notice of cancellation is given by mail, the purchase
24 is considered canceled when the notice is deposited in a mailbox
25 and is properly addressed and postage prepaid.

26 (d) The notice of cancellation is not required to be in a
27 particular form and is sufficient if it indicates by any form of

1 written expression that the buyer does not intend to be bound by
2 the sale.

3 (e) A buyer may not cancel a purchase made as a result of an
4 unsolicited telephone call:

5 (1) if the buyer requests the seller to provide goods
6 or services without delay because of an emergency and the seller in
7 good faith substantially begins performing the contract before the
8 buyer gives notice of cancellation; or

9 (2) in the case of goods, the goods cannot be returned
10 to the seller in substantially as good condition as when received
11 by the buyer.

12 (f) A contract or agreement to purchase a consumer good or
13 service made as a result of an unsolicited telephone call made by a
14 telephone solicitor in violation of this article is voidable by the
15 subscriber.

16 Sec. 117. (a) The commission shall investigate a complaint
17 the commission receives relating to a violation of this article.

18 (b) If the commission finds after an investigation that
19 there has been a violation of this article, the commission may
20 bring an action to impose an administrative penalty under Section
21 119 of this Act or request the attorney general to initiate
22 criminal or civil actions under Section 120 of this Act.

23 Sec. 118. (a) If the attorney general has reason to believe
24 that a person has violated, is violating, or is about to violate a
25 provision of this article and believes that it is in the public
26 interest to conduct an investigation, the attorney general may
27 execute in writing and serve on a person who is believed to have

1 information, documentary material, or physical evidence relevant to
 2 the alleged violation, an investigative demand requiring the person
 3 to provide, under oath or otherwise, a report in writing containing
 4 the nonprivileged relevant facts and circumstances of which the
 5 person has knowledge, to appear and testify, or to produce relevant
 6 nonprivileged documentary material or physical evidence for
 7 examination at a reasonable time and place stated in the
 8 investigative demand.

9 (b) At any time before the earlier of the return date
 10 prescribed by the investigative demand or the 20th day after the
 11 date on which the demand is served, the person may file a petition
 12 to extend the return date or to modify or set aside the demand.
 13 The person must state the reason for the request and must file the
 14 request in the district court in Travis County or in the county in
 15 which the person served with the demand resides or has his
 16 principal place of business. The parties may agree at any time to
 17 extend the return date or to modify or set aside the demand.

18 (c) The attorney general shall inform the commission of the
 19 investigation.

20 Sec. 119. (a) A person who has been found by the commission
 21 to have violated this article is liable for an administrative
 22 penalty of not more than \$100 for each day during which the
 23 violation continues. The administrative penalty may not exceed
 24 \$10,000 for a related series of violations.

25 (b) The commission shall assess the penalty after notice and
 26 a hearing. In determining the amount of the penalty, the
 27 commission shall consider:

1 (1) the nature, circumstances, and gravity of the
2 violation;

3 (2) the degree to which the person penalized is
4 culpable;

5 (3) the effect of the penalty on the person's ability
6 to continue to do business; and

7 (4) any show of good faith in attempting to achieve
8 compliance with this article.

9 Sec. 120. (a) The attorney general at his discretion or at
10 the request of the commission may bring an action to:

11 (1) obtain a declaratory judgment that an act or
12 practice violates this article;

13 (2) enjoin or obtain a restraining order against a
14 person who has violated, is violating, or is likely to violate this
15 article;

16 (3) recover actual damages and, in the case of
17 unconscionable conduct, penalties as provided by this Act, on
18 behalf of an aggrieved telephone subscriber; or

19 (4) recover reasonable expenses, investigation fees,
20 and attorney's fees.

21 (b) The attorney general may accept a consent judgment
22 relating to an act or practice declared to be in violation of this
23 article. The consent judgment:

24 (1) shall require the person to discontinue the act or
25 a transaction in accordance with a telephone subscriber's
26 reasonable expectations;

27 (4) appoint a master or receiver or order

1 sequestration of assets if it appears that the defendant threatens
2 to or is about to remove, conceal, or dispose of property to the
3 detriment of a person to whom restoration would be made under this
4 subsection, and assess the expenses of a master or receiver against
5 the defendant;

6 (5) revoke a license or certificate authorizing that
7 person to engage in business in this state;

8 (6) enjoin a person from engaging in business in this
9 state; or

10 (7) grant other appropriate relief.

11 (b) When the attorney general files an action under this
12 article, another action seeking an injunction or declaratory
13 judgment may not be filed in any other county or district in this
14 state if the action is based on the same transaction or occurrence,
15 series of transactions or occurrences, or allegations that form the
16 basis of the first action filed.

17 Sec. 122. (a) A person commits an offense if the person
18 violates any provision of this article or fails to perform a duty
19 imposed by this article.

20 (b) An offense under this section is a Class B misdemeanor.

21 Sec. 123. (a) In addition to other penalties or liabilities
22 imposed by this article, a person who violates this article is
23 liable for a civil penalty of not more than \$10,000 for each
24 violation.

25 (b) A person convicted of a violation of any of the
26 provisions of this article automatically forfeits the registration
27 issued under this article.

1 Sec. 124. A civil fine, attorney's fees, and any other fees
2 collected by the attorney general under this article shall be
3 deposited in the general revenue fund.

4 SECTION 8. This Act takes effect September 1, 1989.

5 SECTION 9. The importance of this legislation and the
6 crowded condition of the calendars in both houses create an
7 emergency and an imperative public necessity that the
8 constitutional rule requiring bills to be read on three several
9 days in each house be suspended, and this rule is hereby suspended.

HOUSE ENGROSSMENT

89 MAY 11 PM 11:07

HOUSE OF REPRESENTATIVES

By Cavazos, et al.

H.B. No. 174

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of telephone operator services.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subsection (c), Section 3, Public Utility Regulatory Act (Article 1446c, Vernon's Texas Civil Statutes), is amended to read as follows:

(c) The term "public utility" or "utility," when used in this Act, includes any person, corporation, river authority, cooperative corporation, or any combination thereof, other than a municipal corporation or a water supply or sewer service corporation, or their lessees, trustees, and receivers, now or hereafter owning or operating for compensation in this state equipment or facilities for:

(1) producing, generating, transmitting, distributing, selling, or furnishing electricity ("electric utilities" hereinafter) provided, however, that this definition shall not be construed to apply to or include a qualifying small power producer or qualifying cogenerator, as defined in Sections 3(17)(D) and 3(18)(C) of the Federal Power Act, as amended (16 U.S.C. Sections 796 (17)(D) and 796 (18)(C));

(2)(A) the conveyance, transmission, or reception of communications over a telephone system as a dominant carrier as hereinafter defined ("telecommunications utilities" hereinafter); provided that no person or corporation not otherwise a public

1 utility within the meaning of this Act shall be deemed such solely
2 because of the furnishing or furnishing and maintenance of a
3 private system or the manufacture, distribution, installation, or
4 maintenance of customer premise communications equipment and
5 accessories; and provided further that nothing in this Act shall be
6 construed to apply to telegraph services, television stations,
7 radio stations, community antenna television services, or
8 radio-telephone services that may be authorized under the Public
9 Mobile Radio Services rules of the Federal Communications
10 Commission, other than such radio-telephone services provided by
11 wire-line telephone companies under the Domestic Public Land Mobile
12 Radio Service and Rural Radio Service rules of the Federal
13 Communications Commission; and provided further that interexchange
14 telecommunications carriers (including resellers of interexchange
15 telecommunications services), specialized communications common
16 carriers, other resellers of communications, ~~[and]~~ other
17 communications carriers who convey, transmit, or receive
18 communications in whole or in part over a telephone system, and
19 providers of operator services as defined in Section 18A(a) of this
20 Act (except that subscribers to customer-owned pay telephone
21 service shall not be deemed to be telecommunications utilities) who
22 are not dominant carriers are also telecommunications utilities,
23 but the commission's regulatory authority as to them is only as
24 hereinafter defined;

25 (B) "dominant carrier" when used in this Act
26 means (i) a provider of any particular communication service which
27 is provided in whole or in part over a telephone system who as to

1 such service has sufficient market power in a telecommunications
2 market as determined by the commission to enable such provider to
3 control prices in a manner adverse to the public interest for such
4 service in such market; and (ii) any provider of local exchange
5 telephone service within a certificated exchange area as to such
6 service. A telecommunications market shall be statewide until
7 January 1, 1985. After this date the commission may, if it
8 determines that the public interest will be served, establish
9 separate markets within the state. Prior to January 1, 1985, the
10 commission shall hold such hearings and require such evidence as is
11 necessary to carry out the public purpose of this Act and to
12 determine the need and effect of establishing separate markets.
13 Any such provider determined to be a dominant carrier as to a
14 particular telecommunications service in a market shall not be
15 presumed to be a dominant carrier of a different telecommunications
16 service in that market.

17 (3) The term "public utility" or "utility" shall not
18 include any person or corporation not otherwise a public utility
19 that furnishes the services or commodity described in any paragraph
20 of this subsection only to itself, its employees, or tenants as an
21 incident of such employee service or tenancy, when such service or
22 commodity is not resold to or used by others. The term "electric
23 utility" shall not include any person or corporation not otherwise
24 a public utility that owns or operates in this state equipment or
25 facilities for producing, generating, transmitting, distributing,
26 selling, or furnishing electric energy to an electric utility, if
27 the equipment or facilities are used primarily for the production

1 and generation of electric energy for consumption by the person or
2 corporation.

3 SECTION 2. Subsection (c), Section 18, Public Utility
4 Regulatory Act (Article 1446c, Vernon's Texas Civil Statutes), is
5 amended to read as follows:

6 (c) Except as provided by Section 18A of this Act, the [The]
7 commission shall only have the following jurisdiction over all
8 [~~interexchange~~] telecommunications utilities [~~carriers--(including~~
9 ~~resellers----of----interexchange----telecommunications---services),~~
10 ~~specialized-communications--common--carriers,--other--resellers--of~~
11 ~~communications,--and--other--communications--carriers--who--convey,~~
12 ~~transmit,--or--receive-communications-in-whole--or--in--part--over--a~~
13 ~~telephone-system~~] who are not dominant carriers:

14 (1) to require registration as provided in Subsection
15 (d) of this section;

16 (2) to conduct such investigations as are necessary to
17 determine the existence, impact, and scope of competition in the
18 telecommunications industry, including identifying dominant
19 carriers and defining the telecommunications market or markets, and
20 in connection therewith may call and hold hearings, issue subpoenas
21 to compel the attendance of witnesses and the production of papers
22 and documents, and make findings of fact and decisions with respect
23 to administering the provisions of this Act or the rules, orders,
24 and other actions of the commission;

25 (3) to require the filing of such reports as the
26 commission may direct from time to time;

27 (4) to require the maintenance of statewide average

1 rates or prices of telecommunications service;

2 (5) to require that every local exchange area have
 3 access to interexchange telecommunications service, except that an
 4 interexchange telecommunications carrier must be allowed to
 5 discontinue service to a local exchange area if comparable service
 6 is available in the area and the discontinuance is not contrary to
 7 the public interest. This section does not authorize the
 8 commission to require an interexchange telecommunications carrier
 9 that has not provided services to a local exchange area during the
 10 previous 12 months and that has never provided services to that
 11 same local exchange area for a cumulative period of one year at any
 12 time in the past to initiate services to that local exchange area;
 13 and

14 (6) to require the quality of interexchange
 15 telecommunications service provided in each exchange to be adequate
 16 to protect the public interest and the interests of customers of
 17 that exchange if the commission determines that service to a local
 18 exchange has deteriorated to the point that long distance service
 19 is not reliable.

20 SECTION 3. The Public Utility Regulatory Act (Article 1446c,
 21 Vernon's Texas Civil Statutes) is amended by adding Section 18A to
 22 read as follows:

23 Sec. 18A. (a) In this section, "operator service" means any
 24 service using live operator or automated operator functions for the
 25 handling of telephone service such as toll calling via collect,
 26 third number billing, and calling card services. Calls for which
 27 the called party has arranged to be billed (800 service) shall not

1 be considered operator services.

2 (b) Prior to the connection of each call the operator
3 service provider shall:

4 (1) announce the provider's name; and

5 (2) quote, at the caller's request, the rate and any
6 other fees or surcharges applicable to the call and charged by the
7 provider.

8 (c) An operator service provider shall furnish each entity
9 with which it contracts to provide operator service a sticker,
10 card, or other form of information approved by the commission for
11 each telephone that has access to the service and is intended to be
12 utilized by the public, unless the owner of the telephone has
13 received approval from the commission for an alternative form of
14 information. The information must state the provider's name, that
15 the operator service provider will provide rate information on the
16 caller's request, that the caller will be informed how to access
17 the local exchange carrier operator on request, and that any
18 complaint about the service may be made to the provider or the
19 commission at the designated telephone number. The operator
20 service provider shall require by contract that the entity
21 receiving the information display it on or near each of the
22 telephones that has access to the service and is intended for use
23 by the public.

24 (d) An operator service provider must, on request, inform
25 the caller how to access the operator for the local exchange
26 carrier serving the exchange from which the call is made. No
27 charge shall be made for this information.

1 (e) An operator service provider shall include in its
 2 contract with each entity through which it provides operator
 3 service a requirement that the telephones subscribed to its
 4 services shall allow access to the local exchange carrier operator
 5 serving the exchange from which the call is made and to other
 6 operator service providers. But in order to prevent fraudulent use
 7 of its services, an operator service provider may block access if
 8 the provider obtains a waiver for this purpose from the commission
 9 or the Federal Communications Commission.

10 (f) The commission shall promulgate rules consistent with
 11 the requirements of this section and any additional requirements
 12 deemed necessary to protect the public interest by January 1, 1990.
 13 All rules promulgated under this section shall be nondiscriminatory
 14 and designed to promote competition which facilitates consumer
 15 choice.

16 (g) The commission may investigate a complaint that it
 17 receives concerning operator service. If the commission determines
 18 that a person has violated or is about to violate this section, the
 19 commission may, upon proper notice and evidentiary hearing, take
 20 action to stop, correct, or prevent the violation.

21 (h) This section applies only to a telecommunications
 22 utility who is not a dominant carrier. The commission is granted
 23 all necessary power and authority under this Act to promulgate
 24 rules and establish procedures for the purposes of enforcing and
 25 implementing this section.

26 SECTION 4. Section 71, Public Utility Regulatory Act
 27 (Article 1446c, Vernon's Texas Civil Statutes), is amended to read

as follows:

Sec. 71. Whenever it appears to the commission that any public utility or any other person or corporation is engaged in, or is about to engage in, any act in violation of this Act or of any order, rule, or regulation of the commission entered or adopted under the provisions of this Act, or that any public utility or any other person or corporation is failing to comply with the provisions of this Act or with any such rule, regulation, or order, the attorney general on request of the commission, in addition to any other remedies provided herein, shall bring an action in a court of competent jurisdiction in the name of and on behalf of the commission against such public utility or other person or corporation to enjoin the commencement or continuation of any such act, or to require compliance with such Act, rule, regulation, or order. The attorney general may bring such an action to enforce Section 18A of this Act regardless of whether the commission requests the action.

SECTION 5. Subsections (a) and (b), Section 72, Public Utility Regulatory Act (Article 1446c, Vernon's Texas Civil Statutes), are amended to read as follows:

(a) Any public utility, or nondominant telecommunications utility [~~water-supply-or-sewer-service-corporation~~], or affiliated interest that knowingly violates a provision of this Act, fails to perform a duty imposed on it, or fails, neglects, or refuses to obey an order, rule, regulation, direction, or requirement of the commission or decree or judgment of a court, shall be subject to a civil penalty of not less than \$1,000 nor more than \$5,000 for each

offense.

(b) A public utility, or nondominant telecommunications utility [~~water-supply-or-sewer-service-corporation~~], or affiliated interest commits a separate offense each day it continues to violate the provisions of Subsection (a) of this section.

SECTION 6. Article XIII, Public Utility Regulatory Act (Article 1446c, Vernon's Texas Civil Statutes), is amended by adding Section 93B to read as follows:

Sec. 93B. (a) In this section, "operator service" means a service that uses a live operator or automated equipment to assist in the completion of communications over a telephone system. This term shall not apply to similar operator services provided by local exchange carriers.

(b) The amount a hotel or motel charges a guest or a patron for a local telephone call, a credit card telephone call, a collect telephone call, or a telephone call for which assistance from the hotel or motel operator is not required may not exceed the amount charged for a local coin call made from a public pay telephone.

(c) Each hotel or motel shall, on request of a guest, provide to the guest the total cost per minute charged by the operator service and long-distance carrier for the specific long-distance telephone call the guest intends to make from the room.

(d) If a hotel or motel contracts with an operator service, the hotel or motel shall post adjacent to the telephone receiver in each room a notice of the total charges, other than the cost per minute charged by the long-distance carrier, charged by the

1 operator service for making a long-distance call from the room.

2 The notice must also include:

3 (1) a statement that the hotel or motel will provide
4 to the guest on request the total cost per minute charged by the
5 long-distance carrier for making a specific telephone call from the
6 room; and

7 (2) instructions for how the caller may get access to
8 the local exchange carrier operator and any interexchange service
9 provider.

10 SECTION 7. This Act takes effect September 1, 1989.

11 SECTION 8. The importance of this legislation and the
12 crowded condition of the calendars in both houses create an
13 emergency and an imperative public necessity that the
14 constitutional rule requiring bills to be read on three several
15 days in each house be suspended, and this rule is hereby suspended.

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE

March 30, 1989

TO: Honorable James E. "Pete" Laney, Chair
Committee on State Affairs
House of Representatives
Austin, Texas

In Re: House Bill No. 174
By: Cavazos

FROM: Jim Oliver, Director

In response to your request for a Fiscal Note on House Bill No. 174 (relating to charges for the use of a motel or hotel telephone) this office has determined the following:

No fiscal implication to the State or units of local government is anticipated.

Criminal Justice Policy Impact Statement: No change in the sanctions applicable to adults convicted of felony crimes is anticipated.

Source: LBB Staff: JO, JWH, AL, PA

SENATE FAVORABLY AS SUBSTITUTED COMMITTEE REPORT

Lt. Governor William P. Hobby
President of the Senate

¹⁸
MAY 17, 1989 - 2:46pm
(date)/(time)

Sir:

We, your Committee on STATE AFFAIRS to which was referred
HB 174 by CAVAZOS have on 5-17, 1989, had the same
(measure) (sponsor) (hearing date)

under consideration and I am instructed to report it back with the recommendation (s) that it

- ☒ do pass as substituted, and be printed
() the caption remained the same as original measure
☒ the caption changed with adoption of the substitute

() do pass as substituted, and be ordered not printed

() and is recommended for placement on the Local and Uncontested Bills Calendar.

A fiscal note was requested. ☒ yes () no

A revised fiscal note was requested. () yes ☒ no

An actuarial analysis was requested. () yes ☒ no

Considered by subcommittee. () yes ☒ no

Senate Sponsor of House Measure

EDWARDS

The measure was reported from Committee by the following vote:

	YEA	NAY	PNV	ABSENT
Montford, Chairman	<input checked="" type="checkbox"/>			
Henderson, Vice Chairman	<input checked="" type="checkbox"/>			
Armbrister	<input checked="" type="checkbox"/>			
Caperton				<input checked="" type="checkbox"/>
Edwards	<input checked="" type="checkbox"/>			
Glasgow				<input checked="" type="checkbox"/>
Green	<input checked="" type="checkbox"/>			
Harris	<input checked="" type="checkbox"/>			
Leedom	<input checked="" type="checkbox"/>			
Lyon	<input checked="" type="checkbox"/>			
McFarland				<input checked="" type="checkbox"/>
Parmer				<input checked="" type="checkbox"/>
Washington				<input checked="" type="checkbox"/>
TOTAL VOTES	8	0	0	5

Morris Wilkes
COMMITTEE CLERK

Montford
CHAIRMAN

1 By: Cavazos, et al. (Senate Sponsor - Edwards) H.B. No. 174
2 (In the Senate - Received from the House May 12, 1989;
3 May 15, 1989, read first time and referred to Committee on State
4 Affairs; May 18, 1989, reported adversely, with favorable Committee
5 Substitute by the following vote: Yeas 8, Nays 0; May 18, 1989,
6 sent to printer.)

7 COMMITTEE VOTE

	Yea	Nay	PNV	Absent
8 Montford	x			
9 Henderson	x			
10 Armbrister	x			
11 Caperton				x
12 Edwards	x			
13 Glasgow				x
14 Green	x			
15 Harris	x			
16 Leedom	x			
17 Lyon	x			
18 McFarland				x
19 Parmer				x
20 Washington				x

22 COMMITTEE SUBSTITUTE FOR H.B. No. 174

By: Edwards

23 A BILL TO BE ENTITLED
24 AN ACT

25 relating to the regulation of operator service providers.

26 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

27 SECTION 1. Subsection (c), Section 3, Public Utility
28 Regulatory Act (Article 1446c, Vernon's Texas Civil Statutes), is
29 amended to read as follows:

30 (c) The term "public utility" or "utility," when used in
31 this Act, includes any person, corporation, river authority,
32 cooperative corporation, or any combination thereof, other than a
33 municipal corporation or a water supply or sewer service
34 corporation, or their lessees, trustees, and receivers, now or
35 hereafter owning or operating for compensation in this state
36 equipment or facilities for:

37 (1) producing, generating, transmitting, distributing,
38 selling, or furnishing electricity ("electric utilities"
39 hereinafter) provided, however, that this definition shall not be
40 construed to apply to or include a qualifying small power producer
41 or qualifying cogenerator, as defined in Sections 3(17)(D) and
42 3(18)(C) of the Federal Power Act, as amended (16 U.S.C. Sections
43 796 (17)(D) and 796 (18)(C));

44 (2)(A) the conveyance, transmission, or reception of
45 communications over a telephone system as a dominant carrier as
46 hereinafter defined ("telecommunications utilities" hereinafter);
47 provided that no person or corporation not otherwise a public
48 utility within the meaning of this Act shall be deemed such solely
49 because of the furnishing or furnishing and maintenance of a
50 private system or the manufacture, distribution, installation, or
51 maintenance of customer premise communications equipment and
52 accessories; and provided further that nothing in this Act shall be
53 construed to apply to telegraph services, television stations,
54 radio stations, community antenna television services, or
55 radio-telephone services that may be authorized under the Public
56 Mobile Radio Services rules of the Federal Communications
57 Commission, other than such radio-telephone services provided by
58 wire-line telephone companies under the Domestic Public Land Mobile
59 Radio Service and Rural Radio Service rules of the Federal
60 Communications Commission; and provided further that interexchange
61 telecommunications carriers (including resellers of interexchange
62 telecommunications services), specialized communications common
63 carriers, other resellers of communications, [and] other
64 communications carriers who convey, transmit, or receive
65 communications in whole or in part over a telephone system, and

1 providers of operator services as defined in Section 18A(a) of this
 2 Act (except that subscribers to customer-owned pay telephone
 3 service shall not be deemed to be telecommunications utilities) who
 4 are not dominant carriers are also telecommunications utilities,
 5 but the commission's regulatory authority as to them is only as
 6 hereinafter defined;

7 (B) "dominant carrier" when used in this Act
 8 means (i) a provider of any particular communication service which
 9 is provided in whole or in part over a telephone system who as to
 10 such service has sufficient market power in a telecommunications
 11 market as determined by the commission to enable such provider to
 12 control prices in a manner adverse to the public interest for such
 13 service in such market; and (ii) any provider of local exchange
 14 telephone service within a certificated exchange area as to such
 15 service. A telecommunications market shall be statewide until
 16 January 1, 1985. After this date the commission may, if it
 17 determines that the public interest will be served, establish
 18 separate markets within the state. Prior to January 1, 1985, the
 19 commission shall hold such hearings and require such evidence as is
 20 necessary to carry out the public purpose of this Act and to
 21 determine the need and effect of establishing separate markets.
 22 Any such provider determined to be a dominant carrier as to a
 23 particular telecommunications service in a market shall not be
 24 presumed to be a dominant carrier of a different telecommunications
 25 service in that market.

26 (3) The term "public utility" or "utility" shall not
 27 include any person or corporation not otherwise a public utility
 28 that furnishes the services or commodity described in any paragraph
 29 of this subsection only to itself, its employees, or tenants as an
 30 incident of such employee service or tenancy, when such service or
 31 commodity is not resold to or used by others. The term "electric
 32 utility" shall not include any person or corporation not otherwise
 33 a public utility that owns or operates in this state equipment or
 34 facilities for producing, generating, transmitting, distributing,
 35 selling, or furnishing electric energy to an electric utility, if
 36 the equipment or facilities are used primarily for the production
 37 and generation of electric energy for consumption by the person or
 38 corporation.

39 SECTION 2. Subsection (c), Section 18, Public Utility
 40 Regulatory Act (Article 1446c, Vernon's Texas Civil Statutes), is
 41 amended to read as follows:

42 (c) Except as provided by Section 18A of this Act, the [The]
 43 commission shall only have the following jurisdiction over all
 44 [interexchange] telecommunications utilities [carriers-(including
 45 resellers---of---interexchange---telecommunications---services),
 46 specialized--communications--common--carriers;--other--resellers-of
 47 communications;--and--other--communications--carriers--who--convey,
 48 transmit;--or--receive--communications--in--whole-or-in-part-over-a
 49 telephone-system] who are not dominant carriers:

50 (1) to require registration as provided in Subsection
 51 (d) of this section;

52 (2) to conduct such investigations as are necessary to
 53 determine the existence, impact, and scope of competition in the
 54 telecommunications industry, including identifying dominant
 55 carriers and defining the telecommunications market or markets, and
 56 in connection therewith may call and hold hearings, issue subpoenas
 57 to compel the attendance of witnesses and the production of papers
 58 and documents, and make findings of fact and decisions with respect
 59 to administering the provisions of this Act or the rules, orders,
 60 and other actions of the commission;

61 (3) to require the filing of such reports as the
 62 commission may direct from time to time;

63 (4) to require the maintenance of statewide average
 64 rates or prices of telecommunications service;

65 (5) to require that every local exchange area have
 66 access to interexchange telecommunications service, except that an
 67 interexchange telecommunications carrier must be allowed to
 68 discontinue service to a local exchange area if comparable service
 69 is available in the area and the discontinuance is not contrary to
 70 the public interest. This section does not authorize the

commission to require an interexchange telecommunications carrier that has not provided services to a local exchange area during the previous 12 months and that has never provided services to that same local exchange area for a cumulative period of one year at any time in the past to initiate services to that local exchange area; and

(6) to require the quality of interexchange telecommunications service provided in each exchange to be adequate to protect the public interest and the interests of customers of that exchange if the commission determines that service to a local exchange has deteriorated to the point that long distance service is not reliable.

SECTION 3. The Public Utility Regulatory Act (Article 1446c, Vernon's Texas Civil Statutes) is amended by adding Section 18A to read as follows:

Sec. 18A. (a) In this section: "operator service" means any service using live operator or automated operator functions, for the handling of telephone service such as toll calling via collect, third number billing, and calling card services. Calls for which the called party has arranged to be billed (800 service) shall not be considered operator services.

(b) Prior to the connection of each call the operator service provider shall:

(1) announce the provider's name; and
(2) quote, at the caller's request, the rate and any other fees or surcharges applicable to the call and charged by the provider.

(c) An operator service provider shall furnish each entity with which it contracts to provide operator service a sticker, card, or other form of information approved by the commission for each telephone that has access to the service and is intended to be utilized by the public, unless the owner of the telephone has received approval from the commission for an alternative form of information. The information must state the provider's name, that the operator service provider will provide rate information on the caller's request, that the caller will be informed how to access the local exchange carrier operator on request, and that any complaint about the service may be made to the provider or the commission at the designated telephone number. The operator service provider shall require by contract that the entity receiving the information display it on or near each of the telephones that has access to the service and is intended for use by the public.

(d) An operator service provider must, on request, inform the caller how to access the operator for the local exchange carrier serving the exchange from which the call is made. No charge shall be made for this information.

(e) The commission shall adopt rules requiring an operator service provider to include in its contract with each entity through which it provides operator service a requirement that the telephones subscribed to its services shall allow access to the local exchange carrier operator serving the exchange from which the call is made and to other telecommunications utilities; but in order to prevent fraudulent use of its services, and operator service provider and individual entities through which it provides operator services may block access if either obtains a waiver for this purpose from the commission or the Federal Communications Commission. The procedure and criteria for obtaining a waiver from the Public Utility Commission shall be set forth in the Commission's rules.

(f) The commission shall promulgate rules consistent with the requirements of this section and any additional requirements deemed necessary to protect the public interest by January 1, 1990. All rules promulgated under this section shall be nondiscriminatory and designed to promote competition which facilitates consumer choice.

(g) The commission may investigate a complaint that it receives concerning operator service. If the commission determines that a person has violated or is about to violate this section, the commission may, upon proper notice and evidentiary hearing, take

action to stop, correct, or prevent the violation.

(h) This section applies only to a telecommunications utility who is not a dominant carrier. The commission is granted all necessary power and authority under this Act to promulgate rules and establish procedures for the purposes of enforcing and implementing this section.

SECTION 4. Article XIII, Public Utility Regulatory Act (Article 1446c, Vernon's Texas Civil Statutes), is amended by adding Section 93B to read as follows:

The amount a hotel or motel charges for a local telephone call, a credit card telephone call, a collect telephone call, or any other local telephone call for which assistance from the hotel or motel operator is not required may not exceed \$.50.

SECTION 5. This Act takes effect September 1, 1989.

SECTION 6. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

* * * * *

Austin, Texas
May 18, 1989

Hon. William P. Hobby
President of the Senate

Sir:

We, your Committee on State Affairs to which was referred H.B. No. 174, have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do not pass, but that the Committee Substitute adopted in lieu thereof do pass and be printed.

Montford, Chairman

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE

May 16, 1989

TO: Honorable John T. Montford, Chairman
Committee on State Affairs
Senate Chamber
Austin, Texas

In Re: House Bill No. 174,
as engrossed
By: Cavazos

FROM: Jim Oliver, Director

In response to your request for a Fiscal Note on House Bill No. 174, as engrossed (relating to regulation of telephone operator services) this office has determined the following:

No fiscal implication to the State or units of local government is anticipated.

Source: LBB Staff: JO, JWH, AL, CKM

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE

March 30, 1989

TO: Honorable James E. "Pete" Laney, Chair
Committee on State Affairs
House of Representatives
Austin, Texas

In Re: House Bill No. 174
By: Cavazos

FROM: Jim Oliver, Director

In response to your request for a Fiscal Note on House Bill No. 174 (relating to charges for the use of a motel or hotel telephone) this office has determined the following:

No fiscal implication to the State or units of local government is anticipated.

Criminal Justice Policy Impact Statement: No change in the sanctions applicable to adults convicted of felony crimes is anticipated.

Source: LBB Staff: JO, JWH, AL, PA

ADOPTED

MAY 22 1989

Buty King
H.B. No. 174

By Cavazos

Substitute the following for H.B. No. 174

By

Edwards

C.S.H.B. No. 174

A BILL TO BE ENTITLED

AN ACT

The provision amends certain telecommunications services
relating to regulation of operator service providers.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subsection (c), Section 3, Public Utility Regulatory Act (Article 1446c, Vernon's Texas Civil Statutes), is amended to read as follows:

(c) The term "public utility" or "utility," when used in this Act, includes any person, corporation, river authority, cooperative corporation, or any combination thereof, other than a municipal corporation or a water supply or sewer service corporation, or their lessees, trustees, and receivers, now or hereafter owning or operating for compensation in this state equipment or facilities for:

(1) producing, generating, transmitting, distributing, selling, or furnishing electricity ("electric utilities" hereinafter) provided, however, that this definition shall not be construed to apply to or include a qualifying small power producer or qualifying cogenerator, as defined in Sections 3(17)(D) and 3(18)(C) of the Federal Power Act, as amended (16 U.S.C. Sections 796 (17)(D) and 796 (18)(C));

(2)(A) the conveyance, transmission, or reception of communications over a telephone system as a dominant carrier as hereinafter defined ("telecommunications utilities" hereinafter); provided that no person or corporation not otherwise a public utility within the meaning of this Act shall be deemed such solely because of the furnishing or furnishing and maintenance of a private system or the manufacture, distribution, installation,

or maintenance of customer premise communications equipment and accessories; and provided further that nothing in this Act shall be construed to apply to telegraph services, television stations, radio stations, community antenna television services, or radio-telephone services that may be authorized under the Public Mobile Radio Services rules of the Federal Communications Commission, other than such radio-telephone services provided by wire-line telephone companies under the Domestic Public Land Mobile Radio Service and Rural Radio Service rules of the Federal Communications Commission; and provided further that interexchange telecommunications carriers (including resellers of interexchange telecommunications services), specialized communications common carriers, other resellers of communications, ~~and~~ other communications carriers who convey, transmit, or receive communications in whole or in part over a telephone system, and providers of operator services as defined in Section 18A(a) of this Act (except that subscribers to customer-owned pay telephone service shall not be deemed to be telecommunications utilities) who are not dominant carriers are also telecommunications utilities, but the commission's regulatory authority as to them is only as hereinafter defined;

DR (B) "dominant carrier" when used in this Act means (i) a provider of any particular communication service which is provided in whole or in part over a telephone system who as to such service has sufficient market power in a telecommunications market as determined by the commission to enable such provider to control prices in a manner adverse to the public interest for such service in such market; and (ii) any provider of local exchange telephone service within a certificated exchange area as to such service. A telecommunications market shall be statewide until January 1, 1985. After this date the commission may, if it determines that the public interest will be served, establish separate markets within the state. Prior to January 1, 1985, the commission shall

hold such hearings and require such evidence as is necessary to carry out the public purpose of this Act and to determine the need and effect of establishing separate markets. Any such provider determined to be a dominant carrier as to a particular telecommunications service in a market shall not be presumed to be a dominant carrier of a different telecommunications service in that market.

(3) The term "public utility" or "utility" shall not include any person or corporation not otherwise a public utility that furnishes the services or commodity described in any paragraph of this subsection only to itself, its employees, or tenants as an incident of such employee service or tenancy, when such service or commodity is not resold to or used by others. The term "electric utility" shall not include any person or corporation not otherwise a public utility that owns or operates in this state equipment or facilities for producing, generating, transmitting, distributing, selling, or furnishing electric energy to an electric utility, if the equipment or facilities are used primarily for the production and generation of electric energy for consumption by the person or corporation.

SECTION 2. Subsection (c), Section 18, Public Utility Regulatory Act (Article 1446c, Vernon's Texas Civil Statutes), is amended to read as follows:

(c) Except as provided by Section 18A of this Act, the ~~[The]~~ commission shall only have the following jurisdiction over all ~~[interexchange]~~ telecommunications utilities ~~[carriers (including resellers of interexchange telecommunications services), specialized communications common carriers, other resellers of communications, and other communications carriers who convey, transmit, or receive communications in whole or in part over a telephone system]~~ who are not dominant carriers:

(1) to require registration as provided in Subsection (d) of this section;

(2) to conduct such investigations as are necessary to determine the existence, impact, and scope of competition in the telecommunications industry, including identifying dominant carriers and defining the telecommunications market or markets, and in connection therewith may call and hold hearings, issue subpoenas to compel the attendance of witnesses and the production of papers and documents, and make findings of fact and decisions with respect to administering the provisions of this Act or the rules, orders, and other actions of the commission;

(3) to require the filing of such reports as the commission may direct from time to time;

(4) to require the maintenance of statewide average rates or prices of telecommunications service;

(5) to require that every local exchange area have access to interexchange telecommunications service, except that an interexchange telecommunications carrier must be allowed to discontinue service to a local exchange area if comparable service is available in the area and the discontinuance is not contrary to the public interest. This section does not authorize the commission to require an interexchange telecommunications carrier that has not provided services to a local exchange area during the previous 12 months and that has never provided services to that same local exchange area for a cumulative period of one year at any time in the past to initiate services to that local exchange area; and

(6) to require the quality of interexchange telecommunications service provided in each exchange to be adequate to protect the public interest and the interests of customers of that exchange if the commission determines that service to a local exchange has deteriorated to the point that long distance service is not reliable.

SECTION 3. The Public Utility Regulatory Act (Article 1446c, Vernon's Texas Civil Statutes) is amended by adding Section 18A to read as follows:

Sec. 18A. (a) In this section "operator service" means any service using live operator or automated operator functions, for the handling of telephone service such as toll calling via collect, third number billing, and calling card services. Calls for which the called party has arranged to be billed (800 service) shall not be considered operator services.

(b) Prior to the connection of each call the operator service provider shall:

(1) announce the provider's name; and

(2) quote, at the caller's request, the rate and any other fees or surcharges applicable to the call and charged by the provider.

(c) An operator service provider shall furnish each entity with which it contracts to provide operator service a sticker, card, or other form of information approved by the commission for each telephone that has access to the service and is intended to be utilized by the public, unless the owner of the telephone has received approval from the commission for an alternative form of information. The information must state the provider's name, that the operator service provider will provide rate information on the caller's request, that the caller will be informed how to access the local exchange carrier operator on request, and that any complaint about the service may be made to the provider or the commission at the designated telephone number. The operator service provider shall require by contract that the entity receiving the information display it on or near each of the telephones that has access to the service and is intended for use by the public.

(d) An operator service provider must, on request, inform the caller how to access the operator for the local exchange carrier serving the exchange from which the call is made. No charge shall be made for this information.

(e) The commission shall adopt rules requiring an operator service provider to include in its contract with each entity

through which it provides operator service a requirement that the telephones subscribed to its services shall allow access to the local exchange carrier operator serving the exchange from which the call is made and to other telecommunications utilities; but in order to prevent fraudulent use of its services, an operator service provider and individual entities through which it provides operator services may block access if either obtains a waiver for this purpose from the commission or the Federal Communications Commission. The procedure and criteria for obtaining a waiver from the Public Utility Commission shall be set forth in the Commission's rules.

(f) The commission shall promulgate rules consistent with the requirements of this section and any additional requirements deemed necessary to protect the public interest by January 1, 1990. All rules promulgated under this section shall be nondiscriminatory and designed to promote competition which facilitates consumer choice.

(g) The commission may investigate a complaint that it receives concerning operator services. If the commission determines that an operator service provider has violated or is about to violate this section, the commission may, upon proper notice and evidentiary hearing, take action to stop, correct, or prevent the violation.

(h) This section applies only to a telecommunications utility ~~who~~ is not a dominant carrier. The commission is granted all necessary power and authority under this Act to promulgate rules and establish procedures for the purposes of enforcing and implementing this section.

SECTION 4. Article XIII, Public Utility Regulatory Act (Article 1446c, Vernon's Texas Civil Statutes), is amended by adding Section 93B to read as follows:

TP Sec. 93B. The amount a hotel or motel charges for a local telephone call, a credit card telephone call, a collect telephone call, or any other local telephone call for which assistance from the hotel or motel operator is not required may not exceed \$.50.

(11 (INSERT B)))

SECTION ~~7~~ 8.

This Act takes effect September 1, 1989.

SECTION ~~8~~ 9.

The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

FLOOR AMENDMENT NO. 1

BY 

Amend C.S.H.B. 174 on page __, line __, by inserting new Sections 5 and 6 to read as follows and by renumbering subsequent sections accordingly:

SECTION 5. The Public Utility Regulatory Act (Article 1446c, Vernon's Texas Civil Statutes) is amended by adding Section 96A to read as follows:

Sec. 96A. (a) The commission shall adopt and enforce rules establishing a statewide telecommunications relay access service for the hearing-impaired and speech-impaired using specialized communications equipment such as telecommunications devices for the deaf (TDD) and operator translations. The purpose of this section is to provide for the uniform and coordinated provision of the service on a statewide basis by one telecommunications carrier.

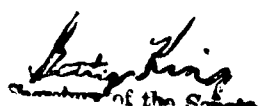
(b) On or before January 1, 1990, the commission shall adopt rules establishing a statewide telecommunications relay access service for the hearing-impaired and speech-impaired with the following provisions:

(1) the service shall provide the hearing-impaired and speech-impaired with access to the telecommunications network in Texas equal to that provided other customers;

(2) the service shall begin on or before September 1, 1990;

(3) the service shall consist of the following:

(A) switching and transmission of the call;

ADOPTED
as amended
MAY 22 1989

Committee of the Senate

1 (B) verbal and print translations by either live
2 or automated means between hearing-impaired and speech-impaired
3 individuals who use TDD equipment or similar automated devices and
4 others who do not have such equipment; and

5 (C) other service enhancements proposed by the
6 carrier and approved by the commission;

7 (4) the calling or called party shall bear no charge
8 for calls originating and terminating within the same local calling
9 area;

10 (5) the calling or called party shall bear one-half of
11 the total charges established by contract with the commission for
12 intrastate interexchange calls;

13 (6) as specified in its contract with the commission,
14 charges related to providing the service which are not borne by a
15 calling or called party pursuant to Subdivisions (4) and (5) of
16 this subsection shall be funded from the universal service fund;

17 (7) local exchange carriers shall not impose
18 interexchange carrier access charges on calls which make use of
19 this service and which originate and terminate in the same local
20 calling area;

21 (8) local exchange carriers shall provide billing and
22 collection services in support of this service at just and
23 reasonable rates; and

24 (9) if the commission orders a local exchange company
25 to provide for a trial telecommunications relay access service for
26 the hearing-impaired or speech-impaired, all pertinent costs and

1 design information from this trial shall be available to the
2 general public.

3 (c) The commission shall allow telecommunications utilities
4 to recover their universal service fund assessment related to this
5 service through a surcharge which the utility may add to its
6 customers' bills. The commission shall specify how the amount of
7 the surcharge is to be determined by each utility. If a utility
8 chooses to impose the surcharge, the bill shall list the surcharge
9 as the "universal service fund surcharge."

10 ~~(d) For the purpose of funding this service, the commission~~
11 shall require that no less than 55 percent of such funds shall come
12 from local exchange carriers.

13 (e) On or before April 1, 1990, the commission shall select
14 the telecommunications carrier which will provide the statewide
15 telecommunications relay access service for the hearing-impaired
16 and speech-impaired. In awarding the contract for this service,
17 the commission shall make a written award of the contract to the
18 offerer whose proposal is the most advantageous to the state,
19 considering price, the interests of the hearing-impaired and
20 speech-impaired community in having access to a high quality and
21 technologically advanced telecommunications system, and all other
22 factors listed in the commission's request for proposals. The
23 commission shall consider each proposal in a manner that does not
24 disclose the contents of the proposal to competing offerers. The
25 commission's evaluation of the proposals shall include:

26 (1) charges for the service;

1 (2) service enhancements proposed by the offerers;
2 (3) technological sophistication of the network
3 proposed by the offerers; and
4 (4) the proposed commencement date for the service.

5 (f) The telecommunications carrier providing the service
6 shall be compensated for providing such service at rates, terms,
7 and conditions established in its contract with the commission.
8 This compensation may include a return on the investment required
9 to provide the service and compensation for unbillable and
10 uncollectible calls placed through the service, provided that
11 compensation for unbillable and uncollectible calls shall be
12 subject to a reasonable limitation as determined by the commission.

13 (g) On or before September 15, 1989, the commission shall
14 appoint an advisory committee to assist the commission in
15 administering this section.

16 (1) The advisory committee shall be composed of:

17 (A) two deaf persons recommended by the Texas
18 Association of the Deaf;

19 (B) one hearing-impaired person recommended by
20 Self-Help for the Hard of Hearing;

21 (C) one hearing-impaired person recommended by
22 the American Association of Retired Persons;

23 (D) one deaf and blind person recommended by the
24 Texas Deaf/Blind Association;

25 (E) one speech-impaired person and one
26 speech-impaired and hearing-impaired person recommended by the

1 Coalition of Texans with Disabilities;

2 (F) two representatives of telecommunications
3 utilities, one representing a nonlocal exchange utility and one
4 representing a local exchange carrier, chosen from a list of
5 candidates provided by the Texas Telephone Association;

6 (G) two persons, at least one of whom is deaf,
7 with experience in providing relay services recommended by the
8 Texas Commission for the Deaf; and

9 (H) two public members recommended by
10 organizations representing consumers of telecommunications
11 services.

12 (2) The commission shall appoint advisory committee
13 members based on recommended lists of candidates submitted in
14 accordance with Paragraph (F) of Subdivision (1) of this
15 subsection.

16 (3) The advisory committee shall monitor the
17 establishment, administration, and promotion of the statewide
18 telecommunications relay access service and advise the commission
19 in pursuing a service which meets the needs of the hearing-impaired
20 and speech-impaired in communicating with other users of
21 telecommunications services.

22 (4) The terms of office of each member of the advisory
23 committee shall be two years. A member whose term has expired
24 shall continue to serve until a qualified replacement is appointed.

25 (5) The members of the advisory committee shall serve
26 without compensation but shall be entitled to reimbursement at

1 rates established for state employees for travel and per diem
2 incurred in the performance of their official duties.

3 (6) The commission shall reimburse members of the
4 advisory committee in accordance with Subdivision (5) of this
5 subsection and shall provide clerical and staff support to the
6 advisory committee, including a secretary to record the committee
7 meetings.

8 (7) The commission's costs associated with the
9 advisory committee shall be reimbursed from the universal service
10 fund.

11 SECTION 6. Subsection (a), Section 98, Public Utility
12 Regulatory Act (Article 1446c, Vernon's Texas Civil Statutes), is
13 amended to read as follows:

14 (a) The commission shall adopt and enforce rules requiring
15 local exchange companies to establish a universal service fund to
16 assist local exchange companies in providing basic local exchange
17 service at reasonable rates in high cost rural areas, to reimburse
18 local exchange companies for revenues lost as a result of providing
19 tel-assistance service under this Act, to reimburse the
20 telecommunications carrier providing the statewide
21 telecommunications relay access service for the hearing-impaired
22 and speech-impaired as authorized in Section 96A of this Act, and
23 to reimburse the Texas Department of Human Services and the Public
24 Utility Commission of Texas for costs incurred in implementing the
25 provisions of this article.

((1111))

AMENDMENT TO FLOOR AMENDMENT NO. 1

BY

[Signature]

Amend ~~Amendment No. 1~~ to C.S.H.B. 174, on page 3, line 10, by striking subsection (d) in its entirety and substituting a new subsection (d) to read as follows:

(d) For the purpose of funding the start-up costs of this service and for the first year of the service, the Commission shall require that 55% of the funds shall come from local exchange carriers and that 45% of the funds shall come from all other telecommunications utilities. At the end of the first year of the service, the Commission shall set the appropriate assessments for the funding of the service by all telecommunications utilities. In setting the appropriate assessments after the first year for funding of the service, the Commission shall consider the aggregate calling pattern of the users of the service and all other factors found appropriate and in the public interest by the Commission. The Commission shall review the assessments annually and adjust the assessments as found appropriate hereunder.

*Note: This supersedes
2nd reading amendment #2*

ADOPTED

by unanimous consent

MAY 23 1989

[Signature]
Secretary of the Senate

Amendment 2

AMENDMENT TO

FLOOR AMENDMENT NO. 1

By: B. Smith

Amend C.S.H.B. 174, SECTION 1, page 3, lines 10-12, by deleting all of said lines and inserting the following in lieu thereof: "(d) for the purpose of funding this service, the commission shall calculate from data provided by the service provider and the local exchange carriers on a quarterly basis a percentage of the relay access service messages that originate and terminate within a local calling area as compared to the total number of messages of the service by customers and require that no less than that percentage of such funds shall come from local exchange carriers. For the first quarter the service is provided, the commission may estimate the percentage of funding that shall come from local exchange carriers."

((Copy sent by faxed 1/6/89))

ADOPTED

MAY 27 1989

L. King
Secretary of the House

AMEND THE CAPTION TO CONFORM
TO THE BODY OF THE BILL

ADOPTED
By unanimous
MAY 23 1989 *consent*
Harry K. ...
Secretary of the Senate

SENATE AMENDMENTS

2nd Printing

89 MAY 23 PM 7:11
CLERK OF SENATE

By Cavazos, et al.

H.B. No. 174

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of telephone operator services.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subsection (c), Section 3, Public Utility Regulatory Act (Article 1446c, Vernon's Texas Civil Statutes), is amended to read as follows:

(c) The term "public utility" or "utility," when used in this Act, includes any person, corporation, river authority, cooperative corporation, or any combination thereof, other than a municipal corporation or a water supply or sewer service corporation, or their lessees, trustees, and receivers, now or hereafter owning or operating for compensation in this state equipment or facilities for:

(1) producing, generating, transmitting, distributing, selling, or furnishing electricity ("electric utilities" hereinafter) provided, however, that this definition shall not be construed to apply to or include a qualifying small power producer or qualifying cogenerator, as defined in Sections 3(17)(D) and 3(18)(C) of the Federal Power Act, as amended (16 U.S.C. Sections 796 (17)(D) and 796 (18)(C));

(2)(A) the conveyance, transmission, or reception of communications over a telephone system as a dominant carrier as hereinafter defined ("telecommunications utilities" hereinafter); provided that no person or corporation not otherwise a public

1 utility within the meaning of this Act shall be deemed such solely
2 because of the furnishing or furnishing and maintenance of a
3 private system or the manufacture, distribution, installation, or
4 maintenance of customer premise communications equipment and
5 accessories; and provided further that nothing in this Act shall be
6 construed to apply to telegraph services, television stations,
7 radio stations, community antenna television services, or
8 radio-telephone services that may be authorized under the Public
9 Mobile Radio Services rules of the Federal Communications
10 Commission, other than such radio-telephone services provided by
11 wire-line telephone companies under the Domestic Public Land Mobile
12 Radio Service and Rural Radio Service rules of the Federal
13 Communications Commission; and provided further that interexchange
14 telecommunications carriers (including resellers of interexchange
15 telecommunications services), specialized communications common
16 carriers, other resellers of communications, [and] other
17 communications carriers who convey, transmit, or receive
18 communications in whole or in part over a telephone system, and
19 providers of operator services as defined in Section 18A(a) of this
20 Act (except that subscribers to customer-owned pay telephone
21 service shall not be deemed to be telecommunications utilities) who
22 are not dominant carriers are also telecommunications utilities,
23 but the commission's regulatory authority as to them is only as
24 hereinafter defined;

25 (B) "dominant carrier" when used in this Act
26 means (i) a provider of any particular communication service which
27 is provided in whole or in part over a telephone system who as to

1 such service has sufficient market power in a telecommunications
2 market as determined by the commission to enable such provider to
3 control prices in a manner adverse to the public interest for such
4 service in such market; and (ii) any provider of local exchange
5 telephone service within a certificated exchange area as to such
6 service. A telecommunications market shall be statewide until
7 January 1, 1985. After this date the commission may, if it
8 determines that the public interest will be served, establish
9 separate markets within the state. Prior to January 1, 1985, the
10 commission shall hold such hearings and require such evidence as is
11 necessary to carry out the public purpose of this Act and to
12 determine the need and effect of establishing separate markets.
13 Any such provider determined to be a dominant carrier as to a
14 particular telecommunications service in a market shall not be
15 presumed to be a dominant carrier of a different telecommunications
16 service in that market.

17 (3) The term "public utility" or "utility" shall not
18 include any person or corporation not otherwise a public utility
19 that furnishes the services or commodity described in any paragraph
20 of this subsection only to itself, its employees, or tenants as an
21 incident of such employee service or tenancy, when such service or
22 commodity is not resold to or used by others. The term "electric
23 utility" shall not include any person or corporation not otherwise
24 a public utility that owns or operates in this state equipment or
25 facilities for producing, generating, transmitting, distributing,
26 selling, or furnishing electric energy to an electric utility, if
27 the equipment or facilities are used primarily for the production

1 and generation of electric energy for consumption by the person or
2 corporation.

3 SECTION 2. Subsection (c), Section 18, Public Utility
4 Regulatory Act (Article 1446c, Vernon's Texas Civil Statutes), is
5 amended to read as follows:

6 (c) Except as provided by Section 18A of this Act, the [The]
7 commission shall only have the following jurisdiction over all
8 [~~interexchange~~] telecommunications utilities [~~carriers--(including~~
9 ~~resellers----of----interexchange----telecommunications---services),~~
10 ~~specialized-communications--common--carriers,--other--resellers--of~~
11 ~~communications,--and--other--communications--carriers--who--convey,~~
12 ~~transmit,--or--receive--communications--in--whole--or--in--part--over--a~~
13 ~~telephone-system]~~ who are not dominant carriers:

14 (1) to require registration as provided in Subsection
15 (d) of this section;

16 (2) to conduct such investigations as are necessary to
17 determine the existence, impact, and scope of competition in the
18 telecommunications industry, including identifying dominant
19 carriers and defining the telecommunications market or markets, and
20 in connection therewith may call and hold hearings, issue subpoenas
21 to compel the attendance of witnesses and the production of papers
22 and documents, and make findings of fact and decisions with respect
23 to administering the provisions of this Act or the rules, orders,
24 and other actions of the commission;

25 (3) to require the filing of such reports as the
26 commission may direct from time to time;

27 (4) to require the maintenance of statewide average

1 rates or prices of telecommunications service;

2 (5) to require that every local exchange area have
3 access to interexchange telecommunications service, except that an
4 interexchange telecommunications carrier must be allowed to
5 discontinue service to a local exchange area if comparable service
6 is available in the area and the discontinuance is not contrary to
7 the public interest. This section does not authorize the
8 commission to require an interexchange telecommunications carrier
9 that has not provided services to a local exchange area during the
10 previous 12 months and that has never provided services to that
11 same local exchange area for a cumulative period of one year at any
12 time in the past to initiate services to that local exchange area;
13 and

14 (6) to require the quality of interexchange
15 telecommunications service provided in each exchange to be adequate
16 to protect the public interest and the interests of customers of
17 that exchange if the commission determines that service to a local
18 exchange has deteriorated to the point that long distance service
19 is not reliable.

20 SECTION 3. The Public Utility Regulatory Act (Article 1446c,
21 Vernon's Texas Civil Statutes) is amended by adding Section 18A to
22 read as follows:

23 Sec. 18A. (a) In this section, "operator service" means any
24 service using live operator or automated operator functions for the
25 handling of telephone service such as toll calling via collect,
26 third number billing, and calling card services. Calls for which
27 the called party has arranged to be billed (800 service) shall not

1 be considered operator services.

2 (b) Prior to the connection of each call the operator
3 service provider shall:

4 (1) announce the provider's name; and

5 (2) quote, at the caller's request, the rate and any
6 other fees or surcharges applicable to the call and charged by the
7 provider.

8 (c) An operator service provider shall furnish each entity
9 with which it contracts to provide operator service a sticker,
10 card, or other form of information approved by the commission for
11 each telephone that has access to the service and is intended to be
12 utilized by the public, unless the owner of the telephone has
13 received approval from the commission for an alternative form of
14 information. The information must state the provider's name, that
15 the operator service provider will provide rate information on the
16 caller's request, that the caller will be informed how to access
17 the local exchange carrier operator on request, and that any
18 complaint about the service may be made to the provider or the
19 commission at the designated telephone number. The operator
20 service provider shall require by contract that the entity
21 receiving the information display it on or near each of the
22 telephones that has access to the service and is intended for use
23 by the public.

24 (d) An operator service provider must, on request, inform
25 the caller how to access the operator for the local exchange
26 carrier serving the exchange from which the call is made. No
27 charge shall be made for this information.

1 (e) An operator service provider shall include in its
2 contract with each entity through which it provides operator
3 service a requirement that the telephones subscribed to its
4 services shall allow access to the local exchange carrier operator
5 serving the exchange from which the call is made and to other
6 operator service providers. But in order to prevent fraudulent use
7 of its services, an operator service provider may block access if
8 the provider obtains a waiver for this purpose from the commission
9 or the Federal Communications Commission.

10 (f) The commission shall promulgate rules consistent with
11 the requirements of this section and any additional requirements
12 deemed necessary to protect the public interest by January 1, 1990.
13 All rules promulgated under this section shall be nondiscriminatory
14 and designed to promote competition which facilitates consumer
15 choice.

16 (g) The commission may investigate a complaint that it
17 receives concerning operator service. If the commission determines
18 that a person has violated or is about to violate this section, the
19 commission may, upon proper notice and evidentiary hearing, take
20 action to stop, correct, or prevent the violation.

21 (h) This section applies only to a telecommunications
22 utility who is not a dominant carrier. The commission is granted
23 all necessary power and authority under this Act to promulgate
24 rules and establish procedures for the purposes of enforcing and
25 implementing this section.

26 SECTION 4. Section 71, Public Utility Regulatory Act
27 (Article 1446c, Vernon's Texas Civil Statutes), is amended to read

as follows:

Sec. 71. Whenever it appears to the commission that any public utility or any other person or corporation is engaged in, or is about to engage in, any act in violation of this Act or of any order, rule, or regulation of the commission entered or adopted under the provisions of this Act, or that any public utility or any other person or corporation is failing to comply with the provisions of this Act or with any such rule, regulation, or order, the attorney general on request of the commission, in addition to any other remedies provided herein, shall bring an action in a court of competent jurisdiction in the name of and on behalf of the commission against such public utility or other person or corporation to enjoin the commencement or continuation of any such act, or to require compliance with such Act, rule, regulation, or order. The attorney general may bring such an action to enforce Section 18A of this Act regardless of whether the commission requests the action.

SECTION 5. Subsections (a) and (b), Section 72, Public Utility Regulatory Act (Article 1446c, Vernon's Texas Civil Statutes), are amended to read as follows:

(a) Any public utility, or nondominant telecommunications utility [~~water-supply-or-sewer-service-corporation~~], or affiliated interest that knowingly violates a provision of this Act, fails to perform a duty imposed on it, or fails, neglects, or refuses to obey an order, rule, regulation, direction, or requirement of the commission or decree or judgment of a court, shall be subject to a civil penalty of not less than \$1,000 nor more than \$5,000 for each

offense.

(b) A public utility, or nondominant telecommunications utility [~~water-supply-or-sewer-service-corporation~~], or affiliated interest commits a separate offense each day it continues to violate the provisions of Subsection (a) of this section.

SECTION 6. Article XIII, Public Utility Regulatory Act (Article 1446c, Vernon's Texas Civil Statutes), is amended by adding Section 93B to read as follows:

Sec. 93B. (a) In this section, "operator service" means a service that uses a live operator or automated equipment to assist in the completion of communications over a telephone system. This term shall not apply to similar operator services provided by local exchange carriers.

(b) The amount a hotel or motel charges a guest or a patron for a local telephone call, a credit card telephone call, a collect telephone call, or a telephone call for which assistance from the hotel or motel operator is not required may not exceed the amount charged for a local coin call made from a public pay telephone.

(c) Each hotel or motel shall, on request of a guest, provide to the guest the total cost per minute charged by the operator service and long-distance carrier for the specific long-distance telephone call the guest intends to make from the room.

(d) If a hotel or motel contracts with an operator service, the hotel or motel shall post adjacent to the telephone receiver in each room a notice of the total charges, other than the cost per minute charged by the long-distance carrier, charged by the

1 operator service for making a long-distance call from the room.

2 The notice must also include:

3 (1) a statement that the hotel or motel will provide
4 to the guest on request the total cost per minute charged by the
5 long-distance carrier for making a specific telephone call from the
6 room; and

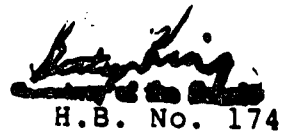
7 (2) instructions for how the caller may get access to
8 the local exchange carrier operator and any interexchange service
9 provider.

10 SECTION 7. This Act takes effect September 1, 1989.

11 SECTION 8. The importance of this legislation and the
12 crowded condition of the calendars in both houses create an
13 emergency and an imperative public necessity that the
14 constitutional rule requiring bills to be read on three several
15 days in each house be suspended, and this rule is hereby suspended.

ADOPTED

MAY 22 1989


H.B. No. 174

By Cavazos

Substitute the following for H.B. No. 174

By Edwards

C.S.H.B. No. 174

A BILL TO BE ENTITLED

AN ACT

relating to regulation of operator service providers.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subsection (c), Section 3, Public Utility Regulatory Act (Article 1446c, Vernon's Texas Civil Statutes), is amended to read as follows:

(c) The term "public utility" or "utility," when used in this Act, includes any person, corporation, river authority, cooperative corporation, or any combination thereof, other than a municipal corporation or a water supply or sewer service corporation, or their lessees, trustees, and receivers, now or hereafter owning or operating for compensation in this state equipment or facilities for:

(1) producing, generating, transmitting, distributing, selling, or furnishing electricity ("electric utilities" hereinafter) provided, however, that this definition shall not be construed to apply to or include a qualifying small power producer or qualifying cogenerator, as defined in Sections 3(17)(D) and 3(18)(C) of the Federal Power Act, as amended (16 U.S.C. Sections 796 (17)(D) and 796 (18)(C));

(2)(A) the conveyance, transmission, or reception of communications over a telephone system as a dominant carrier as hereinafter defined ("telecommunications utilities" hereinafter); provided that no person or corporation not otherwise a public utility within the meaning of this Act shall be deemed such solely because of the furnishing or furnishing and maintenance of a private system or the manufacture, distribution, installation,

or maintenance of customer premise communications equipment and accessories; and provided further that nothing in this Act shall be construed to apply to telegraph services, television stations, radio stations, community antenna television services, or radio-telephone services that may be authorized under the Public Mobile Radio Services rules of the Federal Communications Commission, other than such radio-telephone services provided by wire-line telephone companies under the Domestic Public Land Mobile Radio Service and Rural Radio Service rules of the Federal Communications Commission; and provided further that interexchange telecommunications carriers (including resellers of interexchange telecommunications services), specialized communications common carriers, other resellers of communications, ~~and~~ other communications carriers who convey, transmit, or receive communications in whole or in part over a telephone system, and providers of operator services as defined in Section 18A(a) of this Act (except that subscribers to customer-owned pay telephone service shall not be deemed to be telecommunications utilities) who are not dominant carriers are also telecommunications utilities, but the commission's regulatory authority as to them is only as hereinafter defined;

(B) "dominant carrier" when used in this Act means (i) a provider of any particular communication service which is provided in whole or in part over a telephone system who as to such service has sufficient market power in a telecommunications market as determined by the commission to enable such provider to control prices in a manner adverse to the public interest for such service in such market; and (ii) any provider of local exchange telephone service within a certificated exchange area as to such service. A telecommunications market shall be statewide until January 1, 1985. After this date the commission may, if it determines that the public interest will be served, establish separate markets within the state. Prior to January 1, 1985, the commission shall

hold such hearings and require such evidence as is necessary to carry out the public purpose of this Act and to determine the need and effect of establishing separate markets. Any such provider determined to be a dominant carrier as to a particular telecommunications service in a market shall not be presumed to be a dominant carrier of a different telecommunications service in that market.

(3) The term "public utility" or "utility" shall not include any person or corporation not otherwise a public utility that furnishes the services or commodity described in any paragraph of this subsection only to itself, its employees, or tenants as an incident of such employee service or tenancy, when such service or commodity is not resold to or used by others. The term "electric utility" shall not include any person or corporation not otherwise a public utility that owns or operates in this state equipment or facilities for producing, generating, transmitting, distributing, selling, or furnishing electric energy to an electric utility, if the equipment or facilities are used primarily for the production and generation of electric energy for consumption by the person or corporation.

SECTION 2. Subsection (c), Section 18, Public Utility Regulatory Act (Article 1446c, Vernon's Texas Civil Statutes), is amended to read as follows:

(c) Except as provided by Section 18A of this Act, the [The] commission shall only have the following jurisdiction over all ~~[interexchange]~~ telecommunications utilities ~~[carriers (including resellers of interexchange telecommunications services), specialized communications common carriers, other resellers of communications, and other communications carriers who convey, transmit, or receive communications in whole or in part over a telephone system]~~ who are not dominant carriers:

(1) to require registration as provided in Subsection (d) of this section;

(2) to conduct such investigations as are necessary to determine the existence, impact, and scope of competition in the telecommunications industry, including identifying dominant carriers and defining the telecommunications market or markets, and in connection therewith may call and hold hearings, issue subpoenas to compel the attendance of witnesses and the production of papers and documents, and make findings of fact and decisions with respect to administering the provisions of this Act or the rules, orders, and other actions of the commission;

(3) to require the filing of such reports as the commission may direct from time to time;

(4) to require the maintenance of statewide average rates or prices of telecommunications service;

(5) to require that every local exchange area have access to interexchange telecommunications service, except that an interexchange telecommunications carrier must be allowed to discontinue service to a local exchange area if comparable service is available in the area and the discontinuance is not contrary to the public interest. This section does not authorize the commission to require an interexchange telecommunications carrier that has not provided services to a local exchange area during the previous 12 months and that has never provided services to that same local exchange area for a cumulative period of one year at any time in the past to initiate services to that local exchange area; and

(6) to require the quality of interexchange telecommunications service provided in each exchange to be adequate to protect the public interest and the interests of customers of that exchange if the commission determines that service to a local exchange has deteriorated to the point that long distance service is not reliable.

SECTION 3. The Public Utility Regulatory Act (Article 1446c, Vernon's Texas Civil Statutes) is amended by adding Section 18A to read as follows:

Sec. 18A. (a) In this section "operator service" means any service using live operator or automated operator functions, for the handling of telephone service such as toll calling via collect, third number billing, and calling card services. Calls for which the called party has arranged to be billed (800 service) shall not be considered operator services.

(b) Prior to the connection of each call the operator service provider shall:

(1) announce the provider's name; and

(2) quote, at the caller's request, the rate and any other fees or surcharges applicable to the call and charged by the provider.

(c) An operator service provider shall furnish each entity with which it contracts to provide operator service a sticker, card, or other form of information approved by the commission for each telephone that has access to the service and is intended to be utilized by the public, unless the owner of the telephone has received approval from the commission for an alternative form of information. The information must state the provider's name, that the operator service provider will provide rate information on the caller's request, that the caller will be informed how to access the local exchange carrier operator on request, and that any complaint about the service may be made to the provider or the commission at the designated telephone number. The operator service provider shall require by contract that the entity receiving the information display it on or near each of the telephones that has access to the service and is intended for use by the public.

(d) An operator service provider must, on request, inform the caller how to access the operator for the local exchange carrier serving the exchange from which the call is made. No charge shall be made for this information.

(e) The commission shall adopt rules requiring an operator service provider to include in its contract with each entity

through which it provides operator service a requirement that the telephones subscribed to its services shall allow access to the local exchange carrier operator serving the exchange from which the call is made and to other telecommunications utilities; but in order to prevent fraudulent use of its services, an operator service provider and individual entities through which it provides operator services may block access if either obtains a waiver for this purpose from the commission or the Federal Communications Commission. The procedure and criteria for obtaining a waiver from the Public Utility Commission shall be set forth in the Commission's rules.

(f) The commission shall promulgate rules consistent with the requirements of this section and any additional requirements deemed necessary to protect the public interest by January 1, 1990. All rules promulgated under this section shall be nondiscriminatory and designed to promote competition which facilitates consumer choice.

(g) The commission may investigate a complaint that it receives concerning operator services. If the commission determines that an operator service provider has violated or is about to violate this section, the commission may, upon proper notice and evidentiary hearing, take action to stop, correct, or prevent the violation.

(h) This section applies only to a telecommunications utility who is not a dominant carrier. The commission is granted all necessary power and authority under this Act to promulgate rules and establish procedures for the purposes of enforcing and implementing this section.

SECTION 4. Article XIII, Public Utility Regulatory Act (Article 1446c, Vernon's Texas Civil Statutes), is amended by adding Section 93B to read as follows:

The amount a hotel or motel charges for a local telephone call, a credit card telephone call, a collect telephone call, or any other local telephone call for which assistance from the hotel or motel operator is not required may not exceed \$.50.

SECTION 5. This Act takes effect September 1, 1989.

SECTION 6. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

FLOOR AMENDMENT NO. 1

BY 

Amend C.S.H.B. 174 on page __, line __, by inserting new Sections 5 and 6 to read as follows and by renumbering subsequent sections accordingly:

SECTION 5. The Public Utility Regulatory Act (Article 1446c, Vernon's Texas Civil Statutes) is amended by adding Section 96A to read as follows:

Sec. 96A. (a) The commission shall adopt and enforce rules establishing a statewide telecommunications relay access service for the hearing-impaired and speech-impaired using specialized communications equipment such as telecommunications devices for the deaf (TDD) and operator translations. The purpose of this section is to provide for the uniform and coordinated provision of the service on a statewide basis by one telecommunications carrier.

(b) On or before January 1, 1990, the commission shall adopt rules establishing a statewide telecommunications relay access service for the hearing-impaired and speech-impaired with the following provisions:

(1) the service shall provide the hearing-impaired and speech-impaired with access to the telecommunications network in Texas equal to that provided other customers;

(2) the service shall begin on or before September 1, 1990;

(3) the service shall consist of the following:

(A) switching and transmission of the call;

ADOPTED
as amended
MAY 22 1989

Latisha
Secretary of the Senate

1 (B) verbal and print translations by either live
2 or automated means between hearing-impaired and speech-impaired
3 individuals who use TDD equipment or similar automated devices and
4 others who do not have such equipment; and

5 (C) other service enhancements proposed by the
6 carrier and approved by the commission;

7 (4) the calling or called party shall bear no charge
8 for calls originating and terminating within the same local calling
9 area;

10 (5) the calling or called party shall bear one-half of
11 the total charges established by contract with the commission for
12 intrastate interexchange calls;

13 (6) as specified in its contract with the commission,
14 charges related to providing the service which are not borne by a
15 calling or called party pursuant to Subdivisions (4) and (5) of
16 this subsection shall be funded from the universal service fund;

17 (7) local exchange carriers shall not impose
18 interexchange carrier access charges on calls which make use of
19 this service and which originate and terminate in the same local
20 calling area;

21 (8) local exchange carriers shall provide billing and
22 collection services in support of this service at just and
23 reasonable rates; and

24 (9) if the commission orders a local exchange company
25 to provide for a trial telecommunications relay access service for
26 the hearing-impaired or speech-impaired, all pertinent costs and

1 design information from this trial shall be available to the
2 general public.

3 (c) The commission shall allow telecommunications utilities
4 to recover their universal service fund assessment related to this
5 service through a surcharge which the utility may add to its
6 customers' bills. The commission shall specify how the amount of
7 the surcharge is to be determined by each utility. If a utility
8 chooses to impose the surcharge, the bill shall list the surcharge
9 as the "universal service fund surcharge."

10 (d) For the purpose of funding this service, the commission
11 shall require that no less than 55 percent of such funds shall come
12 from local exchange carriers.

13 (e) On or before April 1, 1990, the commission shall select
14 the telecommunications carrier which will provide the statewide
15 telecommunications relay access service for the hearing-impaired
16 and speech-impaired. In awarding the contract for this service,
17 the commission shall make a written award of the contract to the
18 offerer whose proposal is the most advantageous to the state,
19 considering price, the interests of the hearing-impaired and
20 speech-impaired community in having access to a high quality and
21 technologically advanced telecommunications system, and all other
22 factors listed in the commission's request for proposals. The
23 commission shall consider each proposal in a manner that does not
24 disclose the contents of the proposal to competing offerers. The
25 commission's evaluation of the proposals shall include:

26 (1) charges for the service;

- 1 (2) service enhancements proposed by the offerers;
2 (3) technological sophistication of the network
3 proposed by the offerers; and
4 (4) the proposed commencement date for the service.

5 (f) The telecommunications carrier providing the service
6 shall be compensated for providing such service at rates, terms,
7 and conditions established in its contract with the commission.
8 This compensation may include a return on the investment required
9 to provide the service and compensation for unbillable and
10 uncollectible calls placed through the service, provided that
11 compensation for unbillable and uncollectible calls shall be
12 subject to a reasonable limitation as determined by the commission.

13 (g) On or before September 15, 1989, the commission shall
14 appoint an advisory committee to assist the commission in
15 administering this section.

16 (1) The advisory committee shall be composed of:

17 (A) two deaf persons recommended by the Texas
18 Association of the Deaf;

19 (B) one hearing-impaired person recommended by
20 Self-Help for the Hard of Hearing;

21 (C) one hearing-impaired person recommended by
22 the American Association of Retired Persons;

23 (D) one deaf and blind person recommended by the
24 Texas Deaf/Blind Association;

25 (E) one speech-impaired person and one
26 speech-impaired and hearing-impaired person recommended by the

1 Coalition of Texans with Disabilities;

2 (F) two representatives of telecommunications
3 utilities, one representing a nonlocal exchange utility and one
4 representing a local exchange carrier, chosen from a list of
5 candidates provided by the Texas Telephone Association;

6 (G) two persons, at least one of whom is deaf,
7 with experience in providing relay services recommended by the
8 Texas Commission for the Deaf; and

9 (H) two public members recommended by
10 organizations representing consumers of telecommunications
11 services.

12 (2) The commission shall appoint advisory committee
13 members based on recommended lists of candidates submitted in
14 accordance with Paragraph (F) of Subdivision (1) of this
15 subsection.

16 (3) The advisory committee shall monitor the
17 establishment, administration, and promotion of the statewide
18 telecommunications relay access service and advise the commission
19 in pursuing a service which meets the needs of the hearing-impaired
20 and speech-impaired in communicating with other users of
21 telecommunications services.

22 (4) The terms of office of each member of the advisory
23 committee shall be two years. A member whose term has expired
24 shall continue to serve until a qualified replacement is appointed.

25 (5) The members of the advisory committee shall serve
26 without compensation but shall be entitled to reimbursement at

1 rates established for state employees for travel and per diem
2 incurred in the performance of their official duties.

3 (6) The commission shall reimburse members of the
4 advisory committee in accordance with Subdivision (5) of this
5 subsection and shall provide clerical and staff support to the
6 advisory committee, including a secretary to record the committee
7 meetings.

8 (7) The commission's costs associated with the
9 advisory committee shall be reimbursed from the universal service
10 fund.

11 SECTION 6. Subsection (a), Section 98, Public Utility
12 Regulatory Act (Article 1446c, Vernon's Texas Civil Statutes), is
13 amended to read as follows:

14 (a) The commission shall adopt and enforce rules requiring
15 local exchange companies to establish a universal service fund to
16 assist local exchange companies in providing basic local exchange
17 service at reasonable rates in high cost rural areas, to reimburse
18 local exchange companies for revenues lost as a result of providing
19 tel-assistance service under this Act, to reimburse the
20 telecommunications carrier providing the statewide
21 telecommunications relay access service for the hearing-impaired
22 and speech-impaired as authorized in Section 96A of this Act, and
23 to reimburse the Texas Department of Human Services and the Public
24 Utility Commission of Texas for costs incurred in implementing the
25 provisions of this article.

AMENDMENT TO FLOOR AMENDMENT NO. 1

BY [Signature]

Amend ~~Amendment No. 1~~ to C.S.H.B. 174, on page 3, line 10, by striking subsection (d) in its entirety and substituting a new subsection (d) to read as follows:

(d) For the purpose of funding the start-up costs of this service and for the first year of the service, the Commission shall require that 55% of the funds shall come from local exchange carriers and that 45% of the funds shall come from all other telecommunications utilities. At the end of the first year of the service, the Commission shall set the appropriate assessments for the funding of the service by all telecommunications utilities. In setting the appropriate assessments after the first year for funding of the service, the Commission shall consider the aggregate calling pattern of the users of the service and all other factors found appropriate and in the public interest by the Commission. The Commission shall review the assessments annually and adjust the assessments as found appropriate hereunder.

*Note: this superseded
2nd reading amendment #2*

ADOPTED
by unanimous consent
MAY 23 1989
[Signature]
Secretary of the House

Amendment 2

AMENDMENT TO

FLOOR AMENDMENT NO. 1

By: Brock

Amend C.S.H.B. 174, SECTION 1, page 3, lines 10-12, by deleting all of said lines and inserting the following in lieu thereof: "(d) for the purpose of funding this service, the commission shall calculate from data provided by the service provider and the local exchange carriers on a quarterly basis a percentage of the relay access service messages that originate and terminate within a local calling area as compared to the total number of messages of the service by customers and require that no less than that percentage of such funds shall come from local exchange carriers. For the first quarter the service is provided, the commission may estimate the percentage of funding that shall come from local exchange carriers."

ADOPTED

MAY 27 1969

Anthony King
Secretary of the Rules

AMEND THE CAPTION TO CONFORM
TO THE BODY OF THE BILL

ADOPTED
By unanimous
MAY 23 1989 *Consent*
John F. ...
Secretary of the Senate

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE

May 16, 1989

TO: Honorable John T. Montford, Chairman
Committee on State Affairs
Senate Chamber
Austin, Texas

In Re: House Bill No. 174,
as engrossed
By: Cavazos

FROM: Jim Oliver, Director

In response to your request for a Fiscal Note on House Bill No. 174, as engrossed (relating to regulation of telephone operator services) this office has determined the following:

No fiscal implication to the State or units of local government is anticipated.

Source: LBB Staff: JO, JWH, AL, CKM

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE

March 30, 1989

TO: Honorable James E. "Pete" Laney, Chair
Committee on State Affairs
House of Representatives
Austin, Texas

In Re: House Bill No. 174
By: Cavazos

FROM: Jim Oliver, Director

In response to your request for a Fiscal Note on House Bill No. 174 (relating to charges for the use of a motel or hotel telephone) this office has determined the following:

No fiscal implication to the State or units of local government is anticipated.

Criminal Justice Policy Impact Statement: No change in the sanctions applicable to adults convicted of felony crimes is anticipated.

Source: LBB Staff: JO, JWH, AL, PA

ENROLLED

H.B. No. 174

AN ACT

relating to the provision and regulation of certain telecommunications services.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subsection (c), Section 3, Public Utility Regulatory Act (Article 1446c, Vernon's Texas Civil Statutes), is amended to read as follows:

(c) The term "public utility" or "utility," when used in this Act, includes any person, corporation, river authority, cooperative corporation, or any combination thereof, other than a municipal corporation or a water supply or sewer service corporation, or their lessees, trustees, and receivers, now or hereafter owning or operating for compensation in this state equipment or facilities for:

(1) producing, generating, transmitting, distributing, selling, or furnishing electricity ("electric utilities" hereinafter) provided, however, that this definition shall not be construed to apply to or include a qualifying small power producer or qualifying cogenerator, as defined in Sections 3(17)(D) and 3(18)(C) of the Federal Power Act, as amended (16 U.S.C. Sections 796(17)(D) and 796(18)(C));

(2)(A) the conveyance, transmission, or reception of communications over a telephone system as a dominant carrier as hereinafter defined ("telecommunications utilities" hereinafter);

1 provided that no person or corporation not otherwise a public
2 utility within the meaning of this Act shall be deemed such solely
3 because of the furnishing or furnishing and maintenance of a
4 private system or the manufacture, distribution, installation, or
5 maintenance of customer premise communications equipment and
6 accessories; and provided further that nothing in this Act shall be
7 construed to apply to telegraph services, television stations,
8 radio stations, community antenna television services, or
9 radio-telephone services that may be authorized under the Public
10 Mobile Radio Services rules of the Federal Communications
11 Commission, other than such radio-telephone services provided by
12 wire-line telephone companies under the Domestic Public Land Mobile
13 Radio Service and Rural Radio Service rules of the Federal
14 Communications Commission; and provided further that interexchange
15 telecommunications carriers (including resellers of interexchange
16 telecommunications services), specialized communications common
17 carriers, other resellers of communications, [and] other
18 communications carriers who convey, transmit, or receive
19 communications in whole or in part over a telephone system, and
20 providers of operator services as defined in Section 18A(a) of this
21 Act (except that subscribers to customer-owned pay telephone
22 service shall not be deemed to be telecommunications utilities) who
23 are not dominant carriers are also telecommunications utilities,
24 but the commission's regulatory authority as to them is only as
25 hereinafter defined;

26 (B) "dominant carrier" when used in this Act
27 means (i) a provider of any particular communication service which

1 is provided in whole or in part over a telephone system who as to
2 such service has sufficient market power in a telecommunications
3 market as determined by the commission to enable such provider to
4 control prices in a manner adverse to the public interest for such
5 service in such market; and (ii) any provider of local exchange
6 telephone service within a certificated exchange area as to such
7 service. A telecommunications market shall be statewide until
8 January 1, 1985. After this date the commission may, if it
9 determines that the public interest will be served, establish
10 separate markets within the state. Prior to January 1, 1985, the
11 commission shall hold such hearings and require such evidence as is
12 necessary to carry out the public purpose of this Act and to
13 determine the need and effect of establishing separate markets.
14 Any such provider determined to be a dominant carrier as to a
15 particular telecommunications service in a market shall not be
16 presumed to be a dominant carrier of a different telecommunications
17 service in that market.

18 (3) The term "public utility" or "utility" shall not
19 include any person or corporation not otherwise a public utility
20 that furnishes the services or commodity described in any paragraph
21 of this subsection only to itself, its employees, or tenants as an
22 incident of such employee service or tenancy, when such service or
23 commodity is not resold to or used by others. The term "electric
24 utility" shall not include any person or corporation not otherwise
25 a public utility that owns or operates in this state equipment or
26 facilities for producing, generating, transmitting, distributing,
27 selling, or furnishing electric energy to an electric utility, if

1 the equipment or facilities are used primarily for the production
2 and generation of electric energy for consumption by the person or
3 corporation.

4 SECTION 2. Subsection (c), Section 18, Public Utility
5 Regulatory Act (Article 1446c, Vernon's Texas Civil Statutes), is
6 amended to read as follows:

7 (c) Except as provided by Section 18A of this Act, the [The]
8 commission shall only have the following jurisdiction over all
9 [interexchange] telecommunications utilities [~~carriers-(including~~
10 ~~resellers---of---interexchange---telecommunications---services),~~
11 ~~specialized--communications--common--carriers,--other--resellers-of~~
12 ~~communications,--and--other--communications--carriers--who--convey,~~
13 ~~transmit,--or--receive--communications--in--whole-or-in-part-over-a~~
14 ~~telephone-system]~~ who are not dominant carriers:

15 (1) to require registration as provided in Subsection
16 (d) of this section;

17 (2) to conduct such investigations as are necessary to
18 determine the existence, impact, and scope of competition in the
19 telecommunications industry, including identifying dominant
20 carriers and defining the telecommunications market or markets, and
21 in connection therewith may call and hold hearings, issue subpoenas
22 to compel the attendance of witnesses and the production of papers
23 and documents, and make findings of fact and decisions with respect
24 to administering the provisions of this Act or the rules, orders,
25 and other actions of the commission;

26 (3) to require the filing of such reports as the
27 commission may direct from time to time;

1 (4) to require the maintenance of statewide average
2 rates or prices of telecommunications service;

3 (5) to require that every local exchange area have
4 access to interexchange telecommunications service, except that an
5 interexchange telecommunications carrier must be allowed to
6 discontinue service to a local exchange area if comparable service
7 is available in the area and the discontinuance is not contrary to
8 the public interest. This section does not authorize the
9 commission to require an interexchange telecommunications carrier
10 that has not provided services to a local exchange area during the
11 previous 12 months and that has never provided services to that
12 same local exchange area for a cumulative period of one year at any
13 time in the past to initiate services to that local exchange area;
14 and

15 (6) to require the quality of interexchange
16 telecommunications service provided in each exchange to be adequate
17 to protect the public interest and the interests of customers of
18 that exchange if the commission determines that service to a local
19 exchange has deteriorated to the point that long distance service
20 is not reliable.

21 SECTION 3. The Public Utility Regulatory Act (Article 1446c,
22 Vernon's Texas Civil Statutes) is amended by adding Section 18A to
23 read as follows:

24 Sec. 18A. (a) In this section "operator service" means any
25 service using live operator or automated operator functions for the
26 handling of telephone service such as toll calling via collect,
27 third number billing, and calling card services. Calls for which

1 the called party has arranged to be billed (800 service) shall not
2 be considered operator services.

3 (b) Prior to the connection of each call the operator
4 service provider shall:

5 (1) announce the provider's name; and

6 (2) quote, at the caller's request, the rate and any
7 other fees or surcharges applicable to the call and charged by the
8 provider.

9 (c) An operator service provider shall furnish each entity
10 with which it contracts to provide operator service a sticker,
11 card, or other form of information approved by the commission for
12 each telephone that has access to the service and is intended to be
13 utilized by the public, unless the owner of the telephone has
14 received approval from the commission for an alternative form of
15 information. The information must state the provider's name, that
16 the operator service provider will provide rate information on the
17 caller's request, that the caller will be informed how to access
18 the local exchange carrier operator on request, and that any
19 complaint about the service may be made to the provider or the
20 commission at the designated telephone number. The operator
21 service provider shall require by contract that the entity
22 receiving the information display it on or near each of the
23 telephones that has access to the service and is intended for use
24 by the public.

25 (d) An operator service provider must, on request, inform
26 the caller how to access the operator for the local exchange
27 carrier serving the exchange from which the call is made. No

1 charge shall be made for this information.

2 (e) The commission shall adopt rules requiring an operator
3 service provider to include in its contract with each entity
4 through which it provides operator service a requirement that the
5 telephones subscribed to its services shall allow access to the
6 local exchange carrier operator serving the exchange from which the
7 call is made and to other telecommunications utilities; but in
8 order to prevent fraudulent use of its services, an operator
9 service provider and individual entities through which it provides
10 operator services may block access if either obtains a waiver for
11 this purpose from the commission or the Federal Communications
12 Commission. The procedure and criteria for obtaining a waiver from
13 the commission shall be set forth in the commission's rules.

14 (f) The commission shall promulgate rules consistent with
15 the requirements of this section and any additional requirements
16 deemed necessary to protect the public interest by January 1, 1990.
17 All rules promulgated under this section shall be nondiscriminatory
18 and designed to promote competition that facilitates consumer
19 choice.

20 (g) The commission may investigate a complaint that it
21 receives concerning operator services. If the commission
22 determines that an operator service provider has violated or is
23 about to violate this section, the commission may, upon proper
24 notice and evidentiary hearing, take action to stop, correct, or
25 prevent the violation.

26 (h) This section applies only to a telecommunications
27 utility that is not a dominant carrier. The commission is granted

1 all necessary power and authority under this Act to promulgate
2 rules and establish procedures for the purposes of enforcing and
3 implementing this section.

4 SECTION 4. Article XIII, Public Utility Regulatory Act
5 (Article 1446c, Vernon's Texas Civil Statutes), is amended by
6 adding Section 93B to read as follows:

7 Sec. 93B. The amount a hotel or motel charges for a local
8 telephone call, a credit card telephone call, a collect telephone
9 call, or any other local telephone call for which assistance from
10 the hotel or motel operator is not required may not exceed 50
11 cents.

12 SECTION 5. The Public Utility Regulatory Act (Article 1446c,
13 Vernon's Texas Civil Statutes) is amended by adding Section 96A to
14 read as follows:

15 Sec. 96A. (a) The commission shall adopt and enforce rules
16 establishing a statewide telecommunications relay access service
17 for the hearing-impaired and speech-impaired using specialized
18 communications equipment such as telecommunications devices for the
19 deaf (TDD) and operator translations. The purpose of this section
20 is to provide for the uniform and coordinated provision of the
21 service on a statewide basis by one telecommunications carrier.

22 (b) On or before January 1, 1990, the commission shall adopt
23 rules establishing a statewide telecommunications relay access
24 service for the hearing-impaired and speech-impaired with the
25 following provisions:

26 (1) the service shall provide the hearing-impaired and
27 speech-impaired with access to the telecommunications network in

1 Texas equal to that provided other customers;

2 (2) the service shall begin on or before September 1,
3 1990;

4 (3) the service shall consist of the following:

5 (A) switching and transmission of the call;

6 (B) verbal and print translations by either live
7 or automated means between hearing-impaired and speech-impaired
8 individuals who use TDD equipment or similar automated devices and
9 others who do not have such equipment; and

10 (C) other service enhancements proposed by the
11 carrier and approved by the commission;

12 (4) the calling or called party shall bear no charge
13 for calls originating and terminating within the same local calling
14 area;

15 (5) the calling or called party shall bear one-half of
16 the total charges established by contract with the commission for
17 intrastate interexchange calls;

18 (6) as specified in its contract with the commission,
19 charges related to providing the service which are not borne by a
20 calling or called party pursuant to Subdivisions (4) and (5) of
21 this subsection shall be funded from the universal service fund;

22 (7) local exchange carriers shall not impose
23 interexchange carrier access charges on calls which make use of
24 this service and which originate and terminate in the same local
25 calling area;

26 (8) local exchange carriers shall provide billing and
27 collection services in support of this service at just and

1 reasonable rates; and

2 (9) if the commission orders a local exchange company
3 to provide for a trial telecommunications relay access service for
4 the hearing-impaired or speech-impaired, all pertinent costs and
5 design information from this trial shall be available to the
6 general public.

7 (c) The commission shall allow telecommunications utilities
8 to recover their universal service fund assessment related to this
9 service through a surcharge which the utility may add to its
10 customers' bills. The commission shall specify how the amount of
11 the surcharge is to be determined by each utility. If a utility
12 chooses to impose the surcharge, the bill shall list the surcharge
13 as the "universal service fund surcharge."

14 (d) For the purpose of funding the start-up costs of this
15 service and for the first year of the service, the commission shall
16 require that 55 percent of the funds shall come from local exchange
17 carriers and that 45 percent of the funds shall come from all other
18 telecommunications utilities. At the end of the first year of the
19 service, the commission shall set the appropriate assessments for
20 the funding of the service by all telecommunications utilities. In
21 setting the appropriate assessments after the first year for
22 funding of the service, the commission shall consider the aggregate
23 calling pattern of the users of the service and all other factors
24 found appropriate and in the public interest by the commission.
25 The commission shall review the assessments annually and adjust the
26 assessments as found appropriate hereunder.

27 (e) On or before April 1, 1990, the commission shall select

1 the telecommunications carrier which will provide the statewide
 2 telecommunications relay access service for the hearing-impaired
 3 and speech-impaired. In awarding the contract for this service,
 4 the commission shall make a written award of the contract to the
 5 offerer whose proposal is the most advantageous to the state,
 6 considering price, the interests of the hearing-impaired and
 7 speech-impaired community in having access to a high quality and
 8 technologically advanced telecommunications system, and all other
 9 factors listed in the commission's request for proposals. The
 10 commission shall consider each proposal in a manner that does not
 11 disclose the contents of the proposal to competing offerers. The
 12 commission's evaluation of the proposals shall include:

- 13 (1) charges for the service;
- 14 (2) service enhancements proposed by the offerers;
- 15 (3) technological sophistication of the network
 16 proposed by the offerers; and
- 17 (4) the proposed commencement date for the service.

18 (f) The telecommunications carrier providing the service
 19 shall be compensated for providing such service at rates, terms,
 20 and conditions established in its contract with the commission.
 21 This compensation may include a return on the investment required
 22 to provide the service and compensation for unbillable and
 23 uncollectible calls placed through the service, provided that
 24 compensation for unbillable and uncollectible calls shall be
 25 subject to a reasonable limitation as determined by the commission.

26 (g) On or before September 15, 1989, the commission shall
 27 appoint an advisory committee to assist the commission in

1 administering this section.

2 (1) The advisory committee shall be composed of:

3 (A) two deaf persons recommended by the Texas
4 Association of the Deaf;

5 (B) one hearing-impaired person recommended by
6 Self-Help for the Hard of Hearing;

7 (C) one hearing-impaired person recommended by
8 the American Association of Retired Persons;

9 (D) one deaf and blind person recommended by the
10 Texas Deaf/Blind Association;

11 (E) one speech-impaired person and one
12 speech-impaired and hearing-impaired person recommended by the
13 Coalition of Texans with Disabilities;

14 (F) two representatives of telecommunications
15 utilities, one representing a nonlocal exchange utility and one
16 representing a local exchange carrier, chosen from a list of
17 candidates provided by the Texas Telephone Association;

18 (G) two persons, at least one of whom is deaf,
19 with experience in providing relay services recommended by the
20 Texas Commission for the Deaf; and

21 (H) two public members recommended by
22 organizations representing consumers of telecommunications
23 services.

24 (2) The commission shall appoint advisory committee
25 members based on recommended lists of candidates submitted in
26 accordance with Paragraph (F) of Subdivision (1) of this
27 subsection.

1 (3) The advisory committee shall monitor the
2 establishment, administration, and promotion of the statewide
3 telecommunications relay access service and advise the commission
4 in pursuing a service which meets the needs of the hearing-impaired
5 and speech-impaired in communicating with other users of
6 telecommunications services.

7 (4) The terms of office of each member of the advisory
8 committee shall be two years. A member whose term has expired
9 shall continue to serve until a qualified replacement is appointed.

10 (5) The members of the advisory committee shall serve
11 without compensation but shall be entitled to reimbursement at
12 rates established for state employees for travel and per diem
13 incurred in the performance of their official duties.

14 (6) The commission shall reimburse members of the
15 advisory committee in accordance with Subdivision (5) of this
16 subsection and shall provide clerical and staff support to the
17 advisory committee, including a secretary to record the committee
18 meetings.

19 (7) The commission's costs associated with the
20 advisory committee shall be reimbursed from the universal service
21 fund.

22 SECTION 6. Subsection (a), Section 98, Public Utility
23 Regulatory Act (Article 1446c, Vernon's Texas Civil Statutes), is
24 amended to read as follows:

25 (a) The commission shall adopt and enforce rules requiring
26 local exchange companies to establish a universal service fund to
27 assist local exchange companies in providing basic local exchange

1 service at reasonable rates in high cost rural areas, to reimburse
2 local exchange companies for revenues lost as a result of providing
3 tel-assistance service under this Act, to reimburse the
4 telecommunications carrier providing the statewide
5 telecommunications relay access service for the hearing-impaired
6 and speech-impaired as authorized in Section 96A of this Act, and
7 to reimburse the Texas Department of Human Services and the Public
8 Utility Commission of Texas for costs incurred in implementing the
9 provisions of this article.

10 SECTION 7. This Act takes effect September 1, 1989.

11 SECTION 8. The importance of this legislation and the
12 crowded condition of the calendars in both houses create an
13 emergency and an imperative public necessity that the
14 constitutional rule requiring bills to be read on three several
15 days in each house be suspended, and this rule is hereby suspended.

H.B. No. 174

President of the Senate

Speaker of the House

I certify that H.B. No. 174 was passed by the House on May 11, 1989, by a non-record vote; and that the House concurred in Senate amendments to H.B. No. 174 on May 25, 1989, by a non-record vote.

Chief Clerk of the House

I certify that H.B. No. 174 was passed by the Senate, with amendments, on May 23, 1989, by a viva-voce vote.

Secretary of the Senate

APPROVED: _____

Date

Governor

President of the Senate

Speaker of the House

I certify that H.B. No. 174[✓] was passed by the House on
(1)

May 11[✓]
(2), 1989, by a non-record[✓] vote;

and that the House concurred in Senate amendments to H.B. No. 174[✓]
on May 25[✓]
(3), 1989, by a non-record[✓] vote.

Chief Clerk of the House

**** Preparation: 'A;CT64;

I certify that H.B. No. 174[✓] was passed by the Senate, with
(1)

amendments, on May 23[✓]
(2), 1989, by a
viva-voce[✓] vote.

Secretary of the Senate

APPROVED:

Date

Governor

**** Preparation: 'A;CT15;

H. B. No.

174

By

Campbell

A BILL TO BE ENTITLED

AN ACT

relating to charges for the use of a motel or hotel telephone.

DEC 5 1988

1. Filed with the Chief Clerk.

JAN 23 1989

2. Read first time and Referred to Committee on

State Affairs

APR 26 1989

3. Reported favorably (as amended) (as substituted) and sent to Printer at

6:20 pm
MAY 5 1989

MAY 7 1989

4. Printed and distributed at

4:27 pm

MAY 8 1989

5. Sent to Committee on Calendars at

3:22 pm

MAY 10 1989

6. Read second time (amended) passed to third reading (failed) by (Non-Record Vote) (Record Vote of years, days, present, not voting).

as subs.

7. Motion to reconsider and table the vote by which H.B. was ordered engrossed prevailed (failed) by a (Non-Record Vote) (Record Vote of years, days, and present, not voting).

8. Constitutional Rule requiring bills to be read on three several days suspended (failed to suspend) by a four-fifths vote of years, days, and present, not voting.

MAY 11 1989

9. Read third time (amended) finally passed (failed) by (Non-Record Vote) (Record Vote of years, days, present, not voting).

10. Caption ordered amended to conform to body of bill.

11. Motion to reconsider and table the vote by which H. B. was finally passed prevailed (failed) by a (Non-Record Vote) (Record Vote of years, days, and present, not voting).

MAY 11 1989

12. Ordered Engrossed at

2:28 pm

MAY 11 1989

13. Engrossed.

MAY 11 1989

14. Returned to Chief Clerk at

11:07 pm

MAY 12 1989

15. Sent to Senate.

Betty Murray
Chief Clerk of the House

MAY 13 1989

16. Received from the House

MAY 15 1989

17. Read, referred to Committee on STATE AFFAIRS

18. Reported favorably

MAY 18 1989

19. Reported adversely, with favorable Committee Substitute; Committee Substitute read first time.

20. Ordered not printed.

MAY 22 1989

21. Regular order of business suspended by

unanimous consent
(a viva voce vote.)
years, days,

22. To permit consideration, reading and passage, Senate and Constitutional Rules suspended by vote of _____ years, _____ days.

MAY 24 1989

23. Read second time amended passed to third reading by: (a viva voce vote.) _____ years, _____ days.)

MAY 22 1989

24. Caption ordered amended to conform to body of bill.

MAY 22 1989

25. Senate and Constitutional 3-Day Rules suspended by vote of 30 years, 1 days to place bill on third reading and final passage.

MAY 22 1989

26. Read third time and passed by (a viva voce vote.) _____ years, _____ days.)

OTHER ACTION: OTHER ACTION:

Betty King
Secretary of the Senate

May 22, 1989

27. Returned to the House.

MAY 22 1989

28. Received from the Senate (with amendments.) (as substituted.)

MAY 25 1989

29. House (Concurred) (Refused to Concur) in Senate (Amendments) (Substitute) by a (Non-Record) (Vote) (Record Vote of _____ years, _____ days, _____ present, not voting).

30. Conference Committee Ordered.

31. Conference Committee Report Adopted (Rejected) by a (Non-Record Vote) (Record Vote of _____ years, _____ days, and _____ present, not voting).

MAY 25 1989

32. Ordered Enrolled at 8:14pm

CS MAY 11 1989

MAY 22 1989 Returned to Senate pursuant to provisions of SCR 167

MAY 22 1989 Vote by which finally passed reconsidered

MAY 23 1989 Regular Order of business suspended by unanimous consent, amended by unanimous consent, again finally passed by a viva voce vote.

May 23, 1989 Returned to the House.

MAY 23 1989 Received from Senate as amended and substituted.